

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALTON D. BROWN, also known as)	
POLITICAL PRISONER,)	
)	
Plaintiff,)	Civil Action No. 16-1081
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Cynthia Reed Eddy
TOM WOLF,)	
<i>et.al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On August 15, 2016, the Magistrate Judge issued a Report (Doc. 2) recommending that Alton Brown (“Plaintiff”)’s Motion for Leave to Proceed in Forma Pauperis (Doc. 1) be denied pursuant to the three strikes rule of 28 U.S.C. § 1915(g). Service of the Report and Recommendation was made on Plaintiff. Plaintiff filed objections to the Report and Recommendation on October 13, 2016.

After a *de novo* review of the issues raised in the objections, together with the Report and Recommendation, the following Order is entered:

The Report and Recommendation of the Magistrate Judge, dated August 15, 2016, hereby is adopted as the Opinion of the District Court. As the Magistrate Judge correctly found, Plaintiff’s own submissions demonstrate that he has repeatedly refused medical care offered by the Defendants to treat his prostate cancer. (See Docs. 1-2 at p.1, 7-1 at p.3, 7-2 at p.3, 7-3, at

p.2). Thus, if anything, it is his own refusal to obtain treatment – and not any actions by the Defendants – that has placed Plaintiff in “imminent danger.” See In re Whitfield, No. C-08-21, 2008 WL 694713, at *1 (S.D. Tex. Mar. 13, 2008) (noting that a “*voluntary* hunger strike does not place [a prisoner] in imminent danger of serious physical injury”) (emphasis in original). Because Plaintiff has had three qualifying dismissals and he has not shown that Defendants’ actions have placed him in imminent danger of serious physical injury, the Court will deny Plaintiff’s application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(g).

For the foregoing reasons, Plaintiff’s Motion for Leave to Proceed in Forma Pauperis (**Doc. 1**) is **DENIED**, and this action is dismissed without prejudice to Plaintiff’s right to reopen it by paying the full \$400.00 filing fee.

IT IS SO ORDERED.

October 14, 2016

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All counsel of record

cc (via First-Class U.S. Mail):

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