

serious physical injury as of the time of the filing of the lawsuit. 28 U.S.C. §1915(g); *Baños v. O'Guin*, 144 F.3d 883, 885 (5th Cir. 1998).

After reviewing the pleadings, the Magistrate Judge concluded Plaintiff did not pay the full filing fee and did not show he was in imminent danger of serious physical injury as of the filing of the lawsuit. Docket No. 3 at 2. The Magistrate Judge therefore concluded Plaintiff's lawsuit is barred by the three- strike provision of 28 U.S.C. §1915(g). *Id.*

Plaintiff received a copy of the Magistrate Judge's Report on April 4, 2017, *see* Docket no. 4, but filed no objections thereto; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Dougllass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED the Report of the Magistrate Judge (Docket No. 3) is **ADOPTED** as the opinion of the District Court. It is further

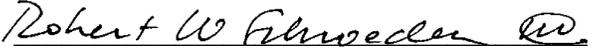
ORDERED the Plaintiff's application for leave to proceed *in forma pauperis* (Docket No. 2) is **DENIED** and the above-styled civil action is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full statutory filing fee. It is further

ORDERED that should the Plaintiff pay the full filing fee within 15 days after the date of entry of final judgment in this case, he shall be allowed to proceed in the lawsuit as though the full

fee had been paid from the outset. Because Justice is ineligible to proceed *in forma pauperis*, the full filing fee is \$400.00. Payment of the full filing fee will not affect a frivolousness analysis nor the requirement of exhaustion of administrative remedies. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 14th day of June, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE