

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

EDMOND STEVEN LOWE, #573977 §
VS. § CIVIL ACTION NO. 6:16cv105
GAYLE E. KARRIKER, ET AL. §

ORDER OF DISMISSAL

Plaintiff Edmond Steven Lowe, an inmate confined at the Coffield Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Lowe has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Lowe, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Lowe are without merit. It is specifically noted that Lowe has a history of abuse of court. He has accumulated “three strikes” for purposes of § 1915(g). He argues in his objections that two of the cases should not count as strikes; nonetheless, the cases were dismissed as frivolous and/or for failure to state a claim upon which relief may be granted. The cases count as strikes for purposes of § 1915(g). The facts as alleged in the present lawsuit do not give rise to an inference that Lowe was under imminent danger of serious

physical injury at the time he filed the lawsuit and his application to proceed *in forma pauperis*; thus, the exception provided by § 1915(g) does not apply. The lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #6) is **ADOPTED**. It is further

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that Lowe's motion for leave to proceed *in forma pauperis* (docket entry #2) is **DENIED**. It is further

ORDERED that Lowe may resume the lawsuit if he pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. Lowe is warned, however, that the lawsuit may be dismissed as frivolous if he timely files the entire filing fee of \$400. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 29th day of March, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE