

United States District Court  
Southern District of Texas

**ENTERED**

November 14, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

KURBY G. DECKER,  
TDCJ #00594703,

Plaintiff,

VS.

LT. CURTIS D. SWEED, *et al*,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 3:16-CV-195

**ORDER OF DISMISSAL**

Plaintiff, Kurby G. Decker (TDCJ #00594703), is an inmate in the custody of the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ”). He filed a civil rights complaint in the Austin Division of the Western District of Texas. That complaint was severed into several cases, one of which was transferred here (Dkt. 40).

Decker is a three-strike filer, meaning that he has, while incarcerated, filed at least three lawsuits that were dismissed for being frivolous, for being malicious, or for failing to state a claim upon which relief may be granted.<sup>1</sup> *See* 28 U.S.C. § 1915(g). As a result, Decker may not bring this action *in forma pauperis* (“IFP”) unless he was under imminent danger of serious physical injury at the time he filed his complaint. *Banos v. O’Guin*, 144 F.3d 883, 885 (5th Cir. 1998). The Texas Attorney General has served


<sup>1</sup> Decker actually has four strikes: Northern District of Texas Case Numbers 7:92-CV-83, 7:92-CV-132, and 7:01-CV-63 and Western District of Texas Case Number 1:02-CV-615.

notice on Decker that he has three strikes (Dkt. 44 at p. 7), but Decker has neither responded nor paid the \$400.00 filing fee.

The Court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** as barred by 28 U.S.C. § 1915(g). The case will be reopened if Decker pays the filing fee in full within thirty days of the date of this order.

The Clerk of this Court shall send a copy of this Order to the parties.

SIGNED at Galveston, Texas, on November 14, 2017.

  
\_\_\_\_\_  
GEORGE C. HANKS, JR.  
UNITED STATES DISTRICT JUDGE