

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

THEODORE FLANAGAN,	§	
TDCJ-CID NO.734335,	§	
Plaintiff,	§	
v.	§	CIVIL ACTION H-11-2422
	§	
BEN HOLMES, <i>et al.</i> ,	§	
Defendants.	§	

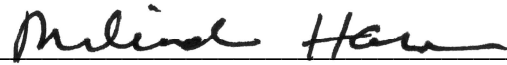
OPINION ON DISMISSAL

Plaintiff, a state inmate incarcerated in the Texas Department of Criminal Justice—Correctional Institutions Division, has filed a complaint pursuant to 42 U.S.C. § 1983. (Docket Entry No. 1). Plaintiff, proceeding *in forma pauperis*, has filed at least three suits while incarcerated that were dismissed as frivolous. *See Flanagan v. Dretke*, Civil Action No. 9:03-172 (E.D. Tex. Sept. 22, 2003) (dismissed as frivolous), *aff'd*, No. 03-41389 (5th Cir. 2004) (appeal dismissed as frivolous); *Flanagan v. Nacogdoches County Jail*, Civil Action No. 9:95-233 (E.D. Tex. Aug. 11, 1997) (dismissed as frivolous); *Flanagan v. Buchmeyer*, Civil Action No. 7:02-274 (N.D. Tex. Jan. 8, 2003) (dismissed as frivolous). Therefore, plaintiff may not proceed in federal court as a pauper under the “three-strikes” provision of 28 U.S.C. § 1915(g). Plaintiff’s complaint does not reflect that he is under imminent danger of serious physical injury; therefore, he does not meet the exception to the “three-strikes” provision of § 1915(g). *See Banos v. O’Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Accordingly, he fails to overcome the three strikes bar.

Because plaintiff has not paid the filing fee, the Court ORDERS that this complaint be DISMISSED without prejudice under 28 U.S.C. § 1915(g). Plaintiff may move to reopen this case if he pays the full \$350.00 filing fee within thirty days. All pending motions, if any, are DENIED.

The Clerk will provide a copy of this order to the plaintiff and a copy by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, this 21st day of July, 2011.

A handwritten signature in black ink, appearing to read "Melinda Harmon", written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE