

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, TALLAHASSEE DIVISION

Antonio T. Flowers v. J. Miley and Officer Lindsey

Flowers · No. 4:26cv037-TKW-MAF · Decided May 29, 2026

SUMMARY

The magistrate judge recommends dismissing Antonio T. Flowers’s prisoner civil rights action without prejudice under 28 U.S.C. § 1915(g). The recommendation finds that Flowers accumulated three qualifying strikes, did not pay the filing fee when initiating the case, and failed to allege facts showing imminent danger of serious physical injury.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Tallahassee Division
WRITING FOR THE COURT	Martin A. Fitzpatrick
JURISDICTION	United States District Court for the Northern District of Florida, Tallahassee Division
DECIDED	May 29, 2026
DOCKET	4:26cv037-TKW-MAF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Report and recommendation addressing a prisoner-plaintiff's motion to proceed in forma pauperis and recommending dismissal without prejudice under the Prison Litigation Reform Act's three-strikes provision.
STANDARD OF REVIEW	The court reviewed the in forma pauperis motion and litigation history under 28 U.S.C. § 1915(g), taking judicial notice of prior federal cases and determining whether the pleadings alleged imminent danger of serious physical injury.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Antonio T. Flowers v. J. Miley, Officer Lindsey

TOPICS

- prisoners rights
- civil procedure
- pleadings

PRACTICE AREAS

prisoner civil rights

civil procedure

in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Plaintiff was barred from proceeding in forma pauperis under 28 U.S.C. § 1915(g) because he had accumulated three qualifying dismissals.
2. Whether Plaintiff alleged facts establishing that he was under imminent danger of serious physical injury, an exception to the three-strikes bar.
3. Whether the action should be dismissed without prejudice because Plaintiff had not paid the filing fee at the time of initiation.

HOLDINGS

1. Plaintiff was not entitled to proceed in forma pauperis because he had accumulated three qualifying strikes from prior federal actions dismissed as malicious, as an abuse of the judicial process, or for failure to state a claim.
2. Plaintiff did not allege facts demonstrating that he faced imminent danger of serious physical injury.
3. The action should be dismissed without prejudice because Plaintiff, subject to § 1915(g), did not pay the filing fee when he initiated the action.

KEY QUOTATIONS

“Plaintiff “cannot simply pay the filing fee after being denied in forma pauperis status.”” (4)

“It is respectfully RECOMMENDED that this case be DISMISSED pursuant to 28 U.S.C. § 1915(g) because Plaintiff has accumulated three prior undisclosed “strikes” and did not pay the filing fee at the time of case initiation.” (5)

FACTUAL BACKGROUND

Plaintiff, a federal inmate proceeding pro se, sought to initiate an action concerning a November 2025 incident and alleged retaliation by Defendants. He failed to submit a complaint on the required court form and did not pay the filing fee when initiating the action. The court identified three prior qualifying dismissals, including dismissals for maliciousness, abuse of the judicial process, and failure to state a claim. Plaintiff had also been transferred twice and was no longer housed with Defendants, and the court found no allegations establishing ongoing or imminent danger of serious physical injury.

PROCEDURAL HISTORY

Plaintiff initiated the action in January 2026 by submitting a document construed by the Clerk as a complaint, although Plaintiff described it as a petition for an injunction. The court ordered him to comply with local filing requirements, pay the filing fee or move to proceed in forma pauperis, and file a proper complaint form. Plaintiff eventually filed an in forma pauperis motion but did not file the required complaint or pay the filing fee. After reviewing his litigation history, the magistrate judge recommended dismissal without prejudice because Plaintiff

had accumulated three qualifying strikes under 28 U.S.C. § 1915(g) and did not allege imminent danger of serious physical injury.

DISPOSITION

dismissed

CASES CITED

- Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002)

OPINION

FLOWERS

PER CURIAM.

Page 1 of 5

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

ANTONIO T. FLOWERS,

D.O.C. # 496287,

Plaintiff, vs. Case No. 4:26cv037-TKW-MAF J. MILEY, and

OFFICER LINDSEY,

Defendants. _____/

REPORT AND RECOMMENDATION

Plaintiff, an inmate proceeding pro se, initiated this case in January 2026 by submitting a document which the Clerk's Office titled as a "complaint," but which Plaintiff indicated was a petition for an injunction. ECF No. 1. An Order was entered, ECF No. 3, requiring Plaintiff to comply with Local Rule 5.3 and either pay the filing fee or move for leave to proceed in forma pauperis. In addition, Plaintiff was required to file a proper complaint on the Court form. Id. Plaintiff was given additional time in which to comply. ECF Nos. 3, 6, 10, and 11. Page 2 of 5 It has taken until May 28, 2026, for Plaintiff to file a proper in forma pauperis motion, ECF No. 13, but Plaintiff still has not filed a proper complaint on the Court form as required. See N.D. Fla. Loc. R. 5.7(A); Fed. R. Civ. P. 3. Review of Plaintiff's in forma pauperis motion shows that Plaintiff has maintained a zero account balance statement. ECF No. 13. Nevertheless, this Court has now undertaken a full review of this case, and Plaintiff's prior litigation history¹ to determine if the in forma pauperis motion, ECF No. 13, should be granted. That review reveals that Plaintiff is not entitled to in forma pauperis status because Plaintiff has incurred "three strikes" under 28 U.S.C. § 1915(g). Judicial notice is taken that Plaintiff filed case number 5:25cv38- MCR-MJF in this Court on February 21, 2025. It was dismissed on December 16, 2025, by United States District Judge M. Casey Rodgers as malicious and an abuse of the judicial process because Plaintiff failed to

honestly disclose his litigation history. That dismissal counts as a “strike” under 28 U.S.C. § 1915(g).¹ Because Plaintiff did not submit a complaint on this Court’s complaint form as required, Plaintiff did not provide information as to his litigation history. Case No. 4:26cv037-TKW-MAF Page 3 of 5 Plaintiff also filed case number 3:25cv108-MMH-SJH in the Middle District of Florida. That case was dismissed prior to service for failure to state a claim and counts as Plaintiff’s second “strike.” Third, Plaintiff filed case number 8:21cv141 in the Middle District of Florida on January 19, 2021. Although Plaintiff filed that case while housed in the Pinellas County Jail and used a different inmate number, Plaintiff listed his full name of Antonio Tyrone Flowers. That corresponds with a prior case he filed in this Court, see case number 5:18cv164, *Flowers v. Secretary of Department of Corrections*, on July 12, 2018. At that time Plaintiff was housed in the Florida Department of Corrections and used inmate number 496287.2 Thus, the Court has confirmed Plaintiff is the same individual who filed this case and that case. Moreover, it has been confirmed that case number 8:21cv141 was dismissed in August 2021 for failure to state a claim. That means Plaintiff has accumulated three “strikes” under 28 U.S.C. § 1915(g).³ 2 That is Plaintiff’s current inmate number and the one he has used in this case. 3 That statute provides that a prisoner may not bring a civil action in forma pauperis under 28 U.S.C. § 1915 if he “has, on 3 or more occasions . . . brought an action or appeal . . . that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Case No. 4:26cv037-TKW-MAF Page 4 of 5 Because of those three “strikes,” Plaintiff is not entitled to proceed with this case unless his complaint presents factual allegations which demonstrate that he faces “imminent danger of serious physical injury.” Plaintiff has not done so. His complaint concerns an incident that occurred in November 2025. ECF No. 1 at 2. That was a one-time event and he failed to allege facts to show ongoing or imminent danger. Although Plaintiff did assert that he was “receiving retaliation” for having made complaints against the Defendants, he did not allege that the retaliation would subject him to imminent danger. Additionally, it is noted that Plaintiff has been transferred twice since initiating this case, see ECF Nos. 6 and 14, and is no longer housed with the Defendants. Therefore, because Plaintiff is not entitled to proceed with in forma pauperis status and has not presented sufficient allegations to show imminent danger, this case should be dismissed without prejudice. *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002) (holding that an action must be dismissed without prejudice when an inmate who is subject to § 1915(g) does not pay the filing fee at the time he initiates the suit). Plaintiff “cannot simply pay the filing fee after being denied in forma pauperis status.” *Dupree*, 284 F.3d at 1236. Case No. 4:26cv037-TKW-MAF Page 5 of 5

RECOMMENDATION

It is respectfully RECOMMENDED that this case be DISMISSED pursuant to 28 U.S.C. § 1915(g) because Plaintiff has accumulated three prior undisclosed “strikes” and did not pay the filing fee at the time of case initiation. All pending motions in this case should be denied and the

Clerk of Court should be directed to note on the docket that this case was dismissed pursuant to 28 U.S.C. § 1915(g). IN CHAMBERS at Tallahassee, Florida, on May 29, 2026. S/ Martin A. Fitzpatrick

MARTIN A. FITZPATRICK

UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Within fourteen (14) days after being served with a copy of this Report and Recommendation, a party may serve and file specific written objections to these proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). Any different deadline that may appear on the electronic docket is for the Court's internal use only and does not control. If a party fails to object to the Magistrate Judge's findings or recommendations as to any particular claim or issue contained in this Report and Recommendation, that party waives the right to challenge on appeal the District Court's order based on the unobjected-to factual and legal conclusions. See 11th Cir. Rule 3-1; 28 U.S.C. § 636. Case No. 4:26cv037-TKW-MAF