

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

Eddie James Moultrie v. Justin Carr, et al.

Moultrie · No. 3:26-cv-3328-TKW-HTC · Decided May 8, 2026

SUMMARY

The United States District Court for the Northern District of Florida adopted the magistrate judge’s Report and Recommendation and dismissed Eddie James Moultrie’s case without prejudice under 28 U.S.C. § 1915(g). The court held that Moultrie was a three-striker, had not shown imminent danger of serious physical injury, and had not paid the filing fee. The court also granted his motion for an extension of time and deemed his objection timely.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Pensacola Division
WRITING FOR THE COURT	T. Kent Wetherell
JURISDICTION	United States District Court for the Northern District of Florida, Pensacola Division
DECIDED	May 8, 2026
DOCKET	3:26-cv-3328-TKW-HTC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation recommending dismissal under the Prison Litigation Reform Act's three-strikes provision. The district court reviewed the objection de novo.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's Report and Recommendation to which objection was made under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3).
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Eddie James Moultrie v. Justin Carr, et al.

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

civil procedure

prisoner litigation

civil rights

QUESTIONS PRESENTED

1. Whether a prior federal action dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim qualifies as a strike under 28 U.S.C. § 1915(g).
2. Whether Plaintiff could proceed in forma pauperis despite having three qualifying strikes, no showing of imminent danger of serious physical injury, and failure to pay the filing fee.
3. Whether the district court should dismiss the action based on Plaintiff's incomplete or inaccurate disclosure of his litigation history.

HOLDINGS

1. A federal action dismissed under Rule 12(b)(6) for failure to state a claim qualifies as a strike under § 1915(g); dismissal at the pre-service screening stage is not required.
2. Plaintiff could not proceed in forma pauperis because he was a three-striker, had not shown imminent danger of serious physical injury, and had not paid the filing fee.
3. The court did not need to reach the alternative disclosure-based ground because dismissal under § 1915(g) was independently proper.

KEY QUOTATIONS

“The fact that the case was dismissed on that ground under Rule 12(b)(6), rather than at the pre-service screening stage, is immaterial to the determination of whether the case counts as a “strike” under §1915(g).” (3)

“Plaintiff's motion to proceed in forma pauperis (Doc. 3) is DENIED, and this case is DISMISSED without prejudice under 28 U.S.C. §1915(g).” (3)

FACTUAL BACKGROUND

Plaintiff initiated this federal civil-rights action without paying the filing fee and sought to proceed in forma pauperis. The magistrate judge determined that Plaintiff was a three-striker under 28 U.S.C. § 1915(g), that he had not shown imminent danger of serious physical injury, and that one prior federal case dismissed under Rule 12(b)(6) counted as a strike. Plaintiff also failed to accurately repeat all responsive litigation-history disclosures in the locations requested by the complaint form.

PROCEDURAL HISTORY

The magistrate judge recommended dismissal because Plaintiff had accumulated three qualifying strikes, had not shown imminent danger of serious physical injury, and had not paid the filing fee. Plaintiff objected, arguing that one prior dismissal did not qualify as a strike and challenging the alternative ground concerning inaccurate disclosure of litigation history. The district court granted an extension of time, rejected the objection, adopted the

Report and Recommendation, denied in forma pauperis status, dismissed the case without prejudice, and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Jackson v. Fla. Dep't of Corr., 491 F. App'x 129, 132 (11th Cir. 2012)
- Hall v. Merola, 67 F.4th 1282 (11th Cir. 2023)
- Maldonado v. Baker Cnty. Sheriff's Off., 23 F.4th 1299, 1304 (11th Cir. 2022)

OPINION

MOULTRIE

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF FLORIDA

PENSACOLA DIVISION

EDDIE JAMES MOULTRIE

Plaintiff, v. Case No. 3:26-cv-3328-TKW-HTC JUSTIN CARR, et al., Defendants. /

ORDER

This case is before the Court based on the magistrate judge's Report and Recommendation (Doc. 5) and Plaintiff's objection (Doc. 7).¹ The Court reviewed the issues raised in the objection de novo under 28 U.S.C. §636(b)(1) and Fed. R. Civ. P. 72(b)(3), and based on that review, the Court agrees with the magistrate judge's determination that this case should be dismissed under 28 U.S.C. §1915(g) because Plaintiff is a "three-striker," he has not shown that he is under imminent danger of serious physical injury, and he did not pay the filing fee when he initiated this case. The Court did not overlook Plaintiff's argument that one of the cases relied on by the magistrate judge to find that he was a three-striker (the Edwards case) was 1 Plaintiff's motion for an extension of time to file the objection (Doc. 6) is supported by good cause and will be granted. not a "strike." That argument is meritless because that case was "brought" in federal court and it was dismissed for one of the reasons listed in §1915(g), i.e., "failure to state a claim on which relief can be granted." The fact that the case was dismissed on that ground under Rule 12(b)(6), rather than at the pre-service screening stage, is immaterial to the determination of whether the case counts as a "strike" under §1915(g).² Because the magistrate judge correctly determined that Plaintiff is a three- striker, the Court need not consider the magistrate judge's alternative determination that the case should be dismissed because Plaintiff's failed to accurately disclose his litigation history by not listing cases in response to Question VIII.A that were listed in response to other questions. However, Plaintiff is now on notice (if he wasn't already) that he should list all cases that are

responsive to each question in future complaints even if the case is listed in response to another question or referenced elsewhere in the complaint. See *Jackson v. Fla. Dep't of Corr.*, 491 F. App'x 129, 132 (11th Cir. 2012). Accordingly, it is ORDERED that: 2 Plaintiff's reliance on *Hall v. Merola*, 67 F.4th 1282 (11th Cir. 2023), to support this argument is misplaced because that case had nothing to do with §1915(g). The court's statement that "'bringing' an action means 'commencing it' not 'maintaining' it" was distinguishing between suits filed in federal court and suits filed in state court and removed by the defendants to federal court (with the former being "brought" in federal court and the latter only being "maintained" in federal court), not suits that did or did not survive pre-service screening. *Id.* (citing *Maldonado v. Baker Cnty. Sheriff's Off.*, 23 F.4th 1299, 1304 (11th Cir. 2022)).

1. The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this Order.
2. Plaintiff's motion for enlargement of time (Doc. 6) is GRANTED, and Plaintiff's objection (Doc. 7) is deemed timely filed.
3. Plaintiff's motion to proceed in forma pauperis (Doc. 3) is DENIED, and this case is DISMISSED without prejudice under 28 U.S.C. §1915(g).
4. Plaintiff's motion for leave to exceed page limitation (Doc. 2) is DENIED as moot.
5. The Clerk shall enter judgment in accordance with this Order and close the case file. DONE AND ORDERED this 8th day of May, 2026. fe

T.KENT WETHERELL,

UNITED STATES DISTRICT JUDGE

Page 3 of 3