

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Gentle Thomas, Jr. v. Adam Madison

Thomas · No. 26-20071-CIV-SANCHEZ · Decided January 14, 2026

SUMMARY

The United States District Court for the Southern District of Florida recommends dismissing Gentle Thomas, Jr.'s complaint without prejudice because his motion to proceed in forma pauperis was denied under the three-strikes provision of 28 U.S.C. § 1915(g). The Report and Recommendation also recommends closing the case and explains the consequences of failing to file timely objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	January 14, 2026
DOCKET	26-20071-CIV-SANCHEZ
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to proceed in forma pauperis in a prisoner civil action. The motion was denied under the three-strikes provision of 28 U.S.C. § 1915(g), and the magistrate judge issued this Report and Recommendation recommending dismissal of the complaint without prejudice and closure of the case.
STANDARD OF REVIEW	A district judge reviews timely objections to a magistrate judge's report and recommendation de novo under 28 U.S.C. § 636(b)(1); absent timely objections, appellate review is limited as described by Eleventh Circuit Rule 3-1.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- prisoners rights
- civil procedure
- motions to dismiss

PRACTICE AREAS

- Civil procedure
- Prisoner litigation
- In forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether the complaint should be dismissed without prejudice after Plaintiff was denied in forma pauperis status under the three-strikes provision of 28 U.S.C. § 1915(g).
2. Whether a prisoner may pay the filing fee after being denied in forma pauperis status under § 1915(g), rather than paying the fee when initiating the action.
3. Whether the magistrate judge could enter a dispositive order dismissing the complaint or instead was required to issue a report and recommendation.

HOLDINGS

1. When a prisoner is denied leave to proceed in forma pauperis under the three-strikes provision of § 1915(g), the complaint should be dismissed without prejudice.
2. Because dismissal of the complaint is dispositive and the magistrate judge lacked authority to enter the dispositive order, the matter was properly submitted to the district judge by report and recommendation.

KEY QUOTATIONS

“The prisoner cannot simply pay the filing fee after being denied in forma pauperis status. He must pay the filing fee at the time he initiates the suit.”

“Failing to file timely objections will bar a de novo determination by the District Judge of any issue addressed in the Report and Recommendation”

FACTUAL BACKGROUND

Gentle Thomas, Jr. filed a prisoner civil action and requested leave to proceed in forma pauperis. The court determined that he had previously filed at least three civil cases while incarcerated that had been dismissed for failure to state a claim, triggering the three-strikes provision of 28 U.S.C. § 1915(g).

PROCEDURAL HISTORY

Plaintiff filed a prisoner civil action and sought leave to proceed without prepaying the filing fee. The court denied in forma pauperis status because Plaintiff had at least three prior prisoner cases dismissed for failure to state a claim under 28 U.S.C. § 1915(g). Because Plaintiff could not cure the denial by paying the fee after filing and the magistrate judge lacked authority to enter a dispositive dismissal, the case was reassigned to a district judge and dismissal without prejudice was recommended.

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand to a lower court was ordered. The magistrate judge recommended that the district judge dismiss the complaint without prejudice and close the case, subject to objections filed within fourteen days.

CASES CITED

- Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Henley v. Johnson, 885 F.2d 790, 794 (11th Cir. 1989)
- Harrigan v. Metro-Dade Police Dept Station #4, 977 F.3d 1185, 1191-92 (11th Cir. 2020)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA CASE NO. 26-20071-CIV-SANCHEZ GENTLE THOMAS, JR., Plaintiff, v. ADAM MADISON, Defendant.

_____/ REPORT AND RECOMMENDATION This matter came before the Court on Plaintiff's motion for leave to proceed in forma pauperis, that is, his Prisoner Request to Proceed in District Court without Prepaying the Full Filing Fee.

ECF No. 3. For the reasons more fully discussed in the Order entered contemporaneously with this Report and Recommendation, see ECF No. 4, the Plaintiff's motion to proceed in forma pauperis was denied due to Plaintiff's non-compliance with 28 U.S.C. § 1915(g). Specifically, Plaintiff ran afoul of § 1915(g)'s three-strikes rule because he had previously filed at least three civil cases while incarcerated that were dismissed for failure to state a claim upon which relief may be granted.

See ECF No. 4 at 2. In such circumstances, the Eleventh Circuit has explained that: [T]he proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed in forma pauperis pursuant to the three strikes provision of § 1915(g).

The prisoner cannot simply pay the filing fee after being denied in forma pauperis status. He must pay the filing fee at the time he initiates the suit. Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002). Thus, because this case must be dismissed at its inception and because the undersigned lacks jurisdiction to enter a dispositive order dismissing Plaintiff's complaint, this case was reassigned to a district judge, and the undersigned is contemporaneously submitting this Report and Recommendation recommending that the Plaintiff's complaint be dismissed without prejudice.

Accordingly, the undersigned RESPECTFULLY RECOMMENDS that Plaintiff's complaint be DISMISSED WITHOUT PREJUDICE and that this case be CLOSED. Within fourteen (14) days from the date of receipt of this Report and Recommendation, the parties shall serve and file written objections, if any, to this Report and Recommendation with the assigned United States District Judge.

Failing to file timely objections will bar a de novo determination by the District Judge of any issue addressed in the Report and Recommendation, will constitute a waiver of a party's "right to challenge on appeal the district court's order based on unobjected-to factual and legal

conclusions,” and will only allow appellate review of the district court order “for plain error if necessary in the interests of justice.” 11th Cir.

R. 3-1; 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989); see also *Harrigan v. Metro-Dade Police Dept Station #4*, 977 F.3d 1185, 1191-92 (11th Cir. 2020). RESPECTFULLY RECOMMENDED in Chambers in Miami, Florida, this 14th day of January 2026. Ath. Kt def — UNITED STATES MAGISTRATE JUDGE CC: Gentle Thomas, Jr., pro se (Via U.S. Mail)