

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JOHN TIMOTHY PRICE,

Plaintiff,

v.

CASE NO. 22-3200-JWL-JPO

BRIAN C. HILL,

Defendant.

ORDER

Plaintiff, John Timothy Price, who is currently detained at the Douglas County Jail in Lawrence, Kansas, brings this *pro se* civil rights case. Plaintiff has not paid the filing fee or filed a motion for leave to proceed *in forma pauperis*.

Plaintiff's claims relate to conditions at the Shawnee County Jail ("SCJ") that occurred during his detention at that facility. Plaintiff claims that he was placed on disciplinary segregation at the SCJ and then was exonerated. He claims double jeopardy because he is now being sought after for punishment on this same issue. Plaintiff claims that the Shawnee County Public Defenders Office disregarded his health and safety. Plaintiff claims he was denied adequate medical attention at the SCJ because it took months to receive an x-ray and staff at the SCJ were on notice of the medical indifference.

Plaintiff is subject to the "three-strikes" provision under 28 U.S.C. § 1915(g). Court records fully establish that Plaintiff "has, on 3 or more prior occasions, while incarcerated . . . , brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted."¹ Accordingly,

¹ Prior to filing the instant complaint on September 9, 2022, the Court finds at least three prior civil actions filed by Plaintiff that qualify as "strikes" under § 1915(g). *See Price v. Dixon*, Case No. 21-cv-3283-SAC, Doc. 11 (D. Kan.

he may proceed *in forma pauperis* only if he establishes a threat of imminent danger of serious physical injury. *Id.*

“To meet the only exception to the prepayment requirement, a prisoner who has accrued three strikes must make ‘specific, credible allegations of imminent danger of serious physical harm.’” *Davis v. GEO Group Corr.*, 696 F. App’x 851, 854 (10th Cir. 2017) (unpublished) (quoting *Hafed v. Fed. Bureau of Prisons*, 635 F.3d 1172, 1179 (10th Cir. 2011)). The “imminent danger” exception has a temporal limitation—[t]he exception is construed narrowly and available only ‘for genuine emergencies,’ where ‘time is pressing’ and ‘a threat . . . is real and proximate.’” *Lynn v. Roberts*, No. 11-3073-JAR, 2011 WL 3667171, at *2 (D. Kan. Aug. 22, 2011) (citation omitted). “Congress included an exception to the ‘three strikes’ rule for those cases in which it appears that judicial action is needed as soon as possible to prevent serious physical injuries from occurring in the meantime.” *Id.* (citation omitted).

The Court has examined the Complaint and finds no showing of imminent danger of serious physical injury. Plaintiff is no longer detained at the SCJ. Accordingly, pursuant to § 1915(g) Plaintiff may not proceed *in forma pauperis* in this civil action. Plaintiff is given time to pay the full \$402.00 district court filing fee² to the Court. If he fails to pay the full fee within the prescribed time, the Complaint will be dismissed based upon Plaintiff’s failure to satisfy the statutory district court filing fee required by 28 U.S.C. § 1914.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff is **denied** leave to proceed *in forma pauperis*.

March 17, 2022); *Price v. Kagay*, Case No. 22-cv-3003-SAC, Doc. 10 (D. Kan. March 17, 2022); *Price v. Blount County*, Case No. 22-cv-3059-SAC, Doc. 9 (D. Kan. April 21, 2022).

² If a person is not granted in forma pauperis status under § 1915, the fee to file a non-habeas civil action includes the \$350.00 fee required by 28 U.S.C. § 1914(a) and a \$52.00 general administrative fee pursuant to § 1914(b) and the District Court Miscellaneous Fee Schedule prescribed by the Judicial Conference of the United States.

IT IS FURTHER ORDERED that Plaintiff is granted until **October 11, 2022**, to submit the \$402.00 filing fee. The failure to submit the fee by that date will result in the dismissal of this matter without prejudice and without additional prior notice.

IT IS SO ORDERED.

Dated September 12, 2022, in Kansas City, Kansas.

S/ John W. Lungstrum
JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE