

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JAMES HENLEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:15-cv-00845-TWP-DKL
)	
BETH HARDESTY-MONTGOMERY,)	
ASHLEY HARDESTY-MONTGOMERY,)	
)	
Defendants.)	

Entry Rescinding *In Forma Pauperis* Status

The court may, in appropriate circumstances, rescind a decision to grant a litigant *in forma pauperis* status. *Wartman v. Branch 7, Civil Division, County Court*, 510 F.2d 130, 133 (7th Cir. 1975). This is an appropriate case for such action.

The grant of leave to proceed *in forma pauperis* is **REVOKED**. The reason for this ruling is that the plaintiff was not eligible to proceed in that fashion at the time he filed this lawsuit. More specifically, the plaintiff is a prisoner and has on three or more prior occasions brought an action or appeal that was dismissed on the grounds that it was frivolous or failed to state a claim upon which relief may be granted. Thus, he was ineligible to proceed *in forma pauperis* by 28 U.S.C. § 1915(g). It can be added here that the narrow exception to the barrier created by § 1915(g)—where a prisoner alleges that he “is under imminent danger of serious physical injury”—does not apply to the claims or allegations in the complaint.

In *Evans v. Illinois Department of Corrections*, 150 F.3d 810 (7th Cir. 1998), it was noted that a prisoner-litigant in these circumstances is entitled to know the cases the court relies on when

making the three-strikes determination. For the plaintiff's reference, the cases on which the court relies in finding three or more "strikes" consist of the following:

Henley v. Aramark, 3:15-cv-95-RLM (N.D. Ind. Mar. 11, 2015) (dismissing action pursuant to 28 U.S.C. § 1915A).

Henley v. Harris, 1:14-cv-317-WTL-DML (S.D. Ind. April 21, 2014) (dismissing action for failure to state a claim pursuant to 28 U.S.C. § 1915A).

Henley v. Marion County Public Defender, 1:14-cv-1050-JMS-DKL (S.D. Ind. Sept. 8, 2014) (dismissing action for failure to state a claim pursuant to 28 U.S.C. § 1915A).

The plaintiff shall have **through July 8, 2015**, in which to pay the filing fee for this action. No initial partial filing fee was paid. Accordingly, the **balance due is Four Hundred Dollars (\$400.00)**. Failure to timely pay the filing fee in full will result in dismissal of this action without further notice.

IT IS SO ORDERED.

Date: 6/24/2015



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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