

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

MALIK AL-MUSTAFA EL-ALAMIN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:14-cv-00149-JMS-MJD
	)	
FEDERAL BUREAU OF PRISONS,	)	
JOHN DOE Corrections Officer,	)	
FIRST NAME UNKNOWN NDIFE,	)	
Physicians Assistant,	)	
THOMAS WEBSTER Clinical Director,	)	
	)	
Defendants.	)	

**Entry Directing Further Proceedings**

The plaintiff previously sought leave to proceed *in forma pauperis*. The Entry of May 29, 2014, denied that motion without prejudice and gave the plaintiff a period of time in which to either pay the filing fee or file a second motion for leave to proceed *in forma pauperis* with the necessary supporting documents. The Entry of May 29, 2014, is now **rescinded and this action is dismissed** without prejudice.

The reason for this ruling is that the plaintiff, a federal prisoner also known as Eric Britten, is not eligible to proceed without the prepayment of the filing fee in the circumstances of this case and the fee has not been paid. The reason Malik Al-Mustafa El-Alamin was not eligible to proceed *in forma pauperis* is that as a prisoner he had filed at least three suits or appeals that were found to be frivolous, malicious, or failed to state a claim.<sup>1</sup> This rendered him ineligible to

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<sup>1</sup>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

proceed *in forma pauperis* and required that he prepay all fees unless in imminent physical danger. 28 U.S.C. ' 1915(g); see *Ammons v. Gerlinger*, 547 F.3d 724, 725 (7th Cir. 2008). The imminent physical danger exception is not implicated by the claims in the plaintiff's complaint.

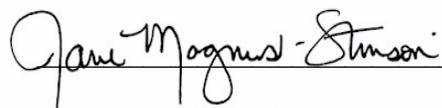
The situation here is governed by the following rule in *Ammons*: "A litigant who knows that he has accumulated three or more frivolous suits or appeals must alert the court to that fact." *Ammons*, 547 F.3d at 725 (citing *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999)). Withholding this information is ground for dismissing the suit. *Id.* "An effort to bamboozle the court by seeking permission to proceed *in forma pauperis* after a federal judge has held that §1915(g) applies to a particular litigant will lead to immediate termination of the suit." *Sloan*, 181 F.3d at 859.

The plaintiff commenced this litigation without prepaying the filing fee and sought leave to proceed *in forma pauperis* under false pretenses. The only appropriate action in these circumstances is the immediate termination of the suit. The dismissal of this action shall be without prejudice.

Judgment consistent with this Entry shall now issue.

**IT IS SO ORDERED.**

Date: 06/19/2014



Hon. Jane Magnus-Stinson, Judge  
United States District Court  
Southern District of Indiana

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three-strikes determination. The plaintiff acquired his three strikes from one court on a single day, but in three different cases. These cases are *Britten v. Chris Benson, et al.*, No. 02-1002 ADM/JGL (D.Minn. July 12, 2002); *Britten v. City of Brooklyn Center, et al.*, No. 02-1059 ADM/JGL (D.Minn. July 12, 2002); and *Britten v. Bob Kappers, et al.*, No. 02- 1192 ADM/JGL (D.Minn. July 12, 2002). Each of these cases was dismissed pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim upon which relief could be granted.

Distribution:

MALIK AL-MUSTAFA EL-ALAMIN

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