

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

VINCENT LEE WALKER,

Plaintiff,

v.

CASE NO. 23-3156-JWL

**DOUGLAS COUNTY BOARD
OF COUNTY COMMISSIONERS,**

Defendant.

MEMORANDUM AND ORDER

Plaintiff, Vincent Lee Walker, who is currently confined at the Douglas County Jail in Lawrence, Kansas (“DCJ”), brings this pro se 42 U.S.C. § 1983 action against the Douglas County Board of County Commissioners. (Doc. 1.) Local Rule 9.1 requires civil rights complaints by prisoners “be on forms approved by the court. Upon request, the clerk of the court will supply forms without charge.” D. Kan. Rule 9.1(a). Plaintiff is hereby advised that any future civil rights complaints he files must be on the court-approved forms.

Plaintiff has neither submitted the statutorily required filing fee nor has he filed a motion to proceed in forma pauperis in this matter. As he is aware, however, he 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, he may proceed in forma pauperis only if he establishes a threat of imminent danger of serious physical injury. *Id.*

¹ Prior to filing the instant complaint, the Court finds three prior civil actions filed by Plaintiff which qualify as “strikes” under § 1915(g). *See Walker v. Douglas County, Kansas, Board of County Commissioners, et al.*, Case No. 22-3050-SAC (D. Kan. April 26, 2022) (dismissed for failure to state a claim); *Walker v. Douglas County Sheriff’s Office, et al.*, Case No. 21-3136-SAC (D. Kan. Nov. 19, 2021) (same); *Walker v. State of Kansas, et al.*, Case No. 20-

“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 *Davis v. GEO Group Corr.*, 696 F. App’x 851, 854 (10th Cir. 2017) (unpublished) (quoting *Hafed v. Fed.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)). “Vague and utterly conclusory assertions are insufficient.” *Id.* The harm must be imminent or occurring at the time the complaint is filed, “allegations of past harm do not suffice.” *Id.* (citations omitted). 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 alleges in his Complaint that he is being denied records and being provided with falsified records. (Doc. 1, p. 1.) Plaintiff raised similar claims in Case No. 23-3154. 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.

3118-SAC (D. Kan. June 17, 2020) (same).

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 **August 1, 2023**, 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 July 3, 2023, in Kansas City, Kansas.

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