

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

---

**GERALD ALLEN PERRY,**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Appellee.*

---

2013-5120

---

Appeal from the United States Court of Federal  
Claims in No. 13-CV-0332, Judge Lynn J. Bush.

---

**ORDER**

---

GERALD ALLEN PERRY, of Iowa Park, Texas, pro se.

MARTIN M. TOMLINSON, Trial Attorney, Commercial  
Litigation Branch, Civil Division, United States Department  
of Justice, of Washington, DC, for defendant-  
appellee. With him on the brief were STUART F. DELERY,  
Assistant Attorney General, BRYANT G. SNEE, Acting  
Director, and BRIAN A. MIZOGUCHI, Assistant Director.

---

Before RADER, *Chief Judge*, PROST, and CHEN, *Circuit Judges*.

PER CURIAM.

Mr. Gerald Allen Perry is incarcerated. He filed an appeal in this court and previously requested to proceed in forma pauperis. That request was denied by an order dated November 27, 2013. In that order, the court directed the custodian of Mr. Perry's prison account to forward the filing fee to the court to be paid in installments in accordance with 28 U.S.C. § 1915.

In a separate paper, Mr. Perry admitted that he has filed four meritless actions in federal court while he has been incarcerated. Given this litigation history, the law is clear that Mr. Perry "shall" not bring "a civil action or appeal a judgment in a civil action or proceeding under [§ 1915]" unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

We have considered Mr. Perry's statement that he is in such imminent danger, but find it without merit. Accordingly, Mr. Perry does not qualify to proceed under § 1915. The November 27, 2013 order of the court is amended to the extent that it authorized him to cover the filing fee through a statutory payment plan. We are without authority to consider Mr. Perry's appeal without the full payment of his filing fee.

Upon consideration thereof,

IT IS ORDERED THAT:

Mr. Perry's appeal is dismissed for failure to pay the proper filing fee.

FOR THE COURT

March 12, 2014  
Date

/s/ Daniel E. O'Toole  
Daniel E. O'Toole  
Clerk of Court