

No. 07-2786

Submitted: February 7, 2008
Filed: February 13, 2008

Before RILEY, MELLOY, and SMITH, Circuit Judges.

PER CURIAM.

Missouri inmate Robert Bell appeals the district court's order denying him leave to proceed in forma pauperis (IFP) in his 42 U.S.C. § 1983 action. See Roberts v. United States Dist. Ct. for N. Dist. of Cal., 339 U.S. 844, 845 (1950) (per curiam) (denial of IFP motion is appealable order). The court's denial of IFP status was based on its finding that Bell had three strikes under 28 U.S.C. § 1915(g). The court also denied leave to proceed IFP on appeal, and Bell has renewed his IFP motion in this court.

We have reviewed the docket sheets and orders in the three cases the district court listed as strikes, see Owens v. Isaac, 487 F.3d 561, 563 (8th Cir. 2007) (per curiam) (reviewing de novo district court's interpretation and application of § 1915(g)), and have determined that Bell had only one strike when the instant lawsuit and appeal were filed, see Campbell v. Davenport Police Dep't, 471 F.3d 952, 952-53 (8th Cir. 2006) (per curiam) (dismissals are counted as strikes only when appeals have been exhausted or waived; § 1915(g) does not apply unless inmate has three strikes at time he files lawsuit or appeal). Accordingly, we grant Bell's motion to proceed IFP in this appeal, and reverse the district court's order denying Bell IFP based on section 1915(g). We deny Bell's motion to stay the appeal.
