

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Dewey Austin Barnett, II v. Tracy Brown, et al.

Barnett · No. 4:26-cv-00734-MTS · Decided May 18, 2026

SUMMARY

The United States District Court for the Eastern District of Missouri denied Dewey Austin Barnett II’s motion to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). The court found that he had previously incurred at least three qualifying dismissals and had not shown that he was under imminent danger of serious physical injury, ordering him to prepay the \$405 filing fee by June 8, 2026.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	May 18, 2026
DOCKET	4:26-cv-00734-MTS
DISPOSITION	other
PROCEDURAL POSTURE	The court reviewed Plaintiff's motion for leave to proceed in forma pauperis in a prisoner civil-rights action.
STANDARD OF REVIEW	The court reviewed the prisoner's in forma pauperis motion under 28 U.S.C. § 1915(g).
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court, with no published reporter citation.
PARTIES	Dewey Austin Barnett, II v. Tracy Brown, et al.

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether Plaintiff could proceed in forma pauperis despite having previously incurred at least three qualifying dismissals under 28 U.S.C. § 1915(g).
2. Whether the imminent-danger exception to the three-strikes rule applied.

HOLDINGS

1. A prisoner with at least three prior actions dismissed as frivolous, malicious, or for failure to state a claim may not proceed in forma pauperis and must prepay the full filing fee unless the imminent-danger exception applies.
2. The imminent-danger exception did not apply because Plaintiff's complaint did not show that he was under imminent danger of serious physical injury.

KEY QUOTATIONS

“After three strikes, a litigant loses the right to sue without prepaying the filing fee.” (at 1)

FACTUAL BACKGROUND

Plaintiff was incarcerated and therefore qualified as a prisoner under 28 U.S.C. § 1915(h). The court found that he had previously filed at least three prisoner actions dismissed as frivolous, malicious, or for failure to state a claim. The complaint did not show that Plaintiff faced imminent danger of serious physical injury.

PROCEDURAL HISTORY

Plaintiff filed this action and moved to proceed in forma pauperis. On review, the court determined that Plaintiff had previously accumulated at least three qualifying strikes under 28 U.S.C. § 1915(g) and that his complaint did not demonstrate imminent danger of serious physical injury. The court denied in forma pauperis status and ordered Plaintiff to prepay the entire \$405 filing fee by June 8, 2026, warning that failure to do so would result in dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Gonzalez v. United States, 23 F.4th 788, 789 (8th Cir. 2022)
- Barnett v. Fox, 4:25-cv-0307-SPM (E.D. Mo. May 13, 2025)
- Barnett v. Fox, 4:25-cv-1206-JSD (E.D. Mo. Aug. 27, 2025)
- Barnett v. Hill, 1:25-cv-0167-JMB (E.D. Mo. Oct. 8, 2025)
- Barnett v. Stacey, 4:26-cv-0088-RHH, ECF No. 10 (E.D. Mo. Mar. 16, 2026)

OPINION

Barnett

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MISSOURI

EASTERN DIVISION

DEWEY AUSTIN BARNETT, II,)

) Plaintiff,)) vs.) Case No. 4:26-cv-00734-MTS) TRACY BROWN, et al.,)) Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on review of Plaintiff's Motion for Leave to Proceed in Forma Pauperis. Doc. [2]. Plaintiff currently is a "prisoner" as that term is defined under 28 U.S.C. § 1915(h). Because he previously filed at least three actions while a prisoner that the Court later dismissed as frivolous, malicious, or because they failed to state a claim upon which relief may be granted,¹ Plaintiff cannot proceed with his instant action unless he prepays the entire \$405 filing fee. 28 U.S.C. § 1915(g); see also *Gonzalez v. United States*, 23 F.4th 788, 789 (8th Cir.), cert. denied, 142 S. Ct. 2837 (2022) ("After three strikes, a litigant loses the right to sue without prepaying the filing fee.").² 1 See *Barnett v. Fox*, 4:25-cv-0307-SPM, ECF No. 3 (E.D. Mo. May 13, 2025); *Barnett v. Fox*, 4:25-cv-1206-JSD, ECF No. 4 (E.D. Mo. Aug. 27, 2025); *Barnett v. Hill*, 1:25-cv- 0167-JMB, ECF No. 5 (E.D. Mo. Oct. 8, 2025). See also *Barnett v. Stacey*, 4:26-cv-0088-RHH, ECF No. 10 (E.D. Mo. Mar. 16, 2026) (noting Plaintiff has three strikes). 2 Plaintiff's Complaint does not, in any way, show he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g). Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to Proceed in Forma Pauperis, Doc. [2], is DENIED. IT IS FURTHER ORDERED that, no later than Monday, June 08, 2026, Plaintiff shall prepay the entire filing fee of \$405 in full. If Plaintiff fails to do so, the Court will dismiss this action without prejudice and without further notice. Dated this 18th day of May 2026. CC ul

UNITED STATES DISTRICT JUDGE

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