

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Harper v. Campbell

Harper v. Campbell · No. 1:24-cv-1549 JLT EPG (PC) · Decided March 24, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations in Daniel Harper’s civil-rights action concerning conditions at Corcoran State Prison. The court denied Harper’s applications to proceed in forma pauperis, denied his motion concerning imminent danger, and ordered him to pay the \$405 filing fee within 30 days or face dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 24, 2025
DOCKET	1:24-cv-1549 JLT EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought leave to proceed in forma pauperis in a prisoner civil-rights action. After a magistrate judge recommended denial under the three-strikes provision of 28 U.S.C. § 1915(g), plaintiff filed a motion concerning imminent danger rather than specific objections. The district court conducted de novo review, adopted the findings and recommendations, denied both in forma pauperis applications, and ordered plaintiff to pay the filing fee.
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1)
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- prisoners rights
- civil rights
- civil procedure
- appellate procedure

PRACTICE AREAS

- prisoner civil rights
- in forma pauperis procedure
- federal civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff qualified for the imminent-danger exception to the three-strikes limitation on proceeding in forma pauperis under 28 U.S.C. § 1915(g).
2. Whether the magistrate judge's findings and recommendations should be adopted after de novo review under 28 U.S.C. § 636(b)(1).
3. Whether plaintiff's second application to proceed in forma pauperis and motion to show imminent danger should be denied.

HOLDINGS

1. Plaintiff did not qualify for the imminent-danger exception because his allegations did not show a real and imminent threat to his personal safety, and he had accumulated four qualifying strikes.
2. The district court adopted the magistrate judge's findings and recommendations in full after conducting de novo review under 28 U.S.C. § 636(b)(1).
3. Plaintiff's applications to proceed in forma pauperis were denied, and he was ordered to pay the \$405 filing fee within 30 days.

KEY QUOTATIONS

“Having carefully reviewed the entire matter, the Court concludes the Findings and Recommendations are supported by the record and proper analysis.” (at 3)

“failure to pay the required filing fee as ordered will result in the dismissal of this action without prejudice.” (at 4)

FACTUAL BACKGROUND

Daniel Harper alleges that defendants violated his civil rights while he was housed at Corcoran State Prison. His allegations concerned the failure to send appeal responses in time, allegedly violating the California Code of Regulations. The district court found that these allegations did not show a real and imminent threat to his personal safety and that four prior actions qualified as strikes under § 1915(g).

PROCEDURAL HISTORY

The magistrate judge found that plaintiff had accumulated four qualifying strikes under § 1915(g) and that his allegations did not establish a real and imminent threat to his personal safety. The findings and recommendations were served, but plaintiff filed no specific objections; he instead filed a motion to show imminent danger, a notice of appeal, and a second in forma pauperis motion. The Ninth Circuit dismissed the appeal for lack of jurisdiction on February 28, 2025, and issued its mandate on March 24, 2025. The district court then adopted the findings and recommendations in full and ordered payment of the filing fee within 30 days.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 DANIEL HARPER, Case No. 1:24-cv-1549 JLT EPG (PC) 12 Plaintiff,
ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING 13 v.
PLAINTIFF’S APPLICATIONS TO PROCEED IN FORMA PAUPERIS, AND 14 TAMMY
CAMPBELL, et al., DIRECTING PLAINTIFF TO PAY THE FILING FEE WITHIN 30 DAYS 15
Defendants.

(Docs. 2, 8, 10, 12) 16 17 Daniel Harper seeks to proceed in forma pauperis in this action, in
which he alleges the 18 defendants violated his civil rights while housed at Corcoran State Prison.
(Docs. 1, 2.) Plaintiff 19 requests to proceed in forma pauperis in this action.

The magistrate judge identified four actions 20 that qualified as strikes under 28 U.S.C. § 1915(g).
(Doc. 8 at 2.) In addition, the magistrate 21 judge found Plaintiff’s “allegations are insufficient to
show that there is a real and imminent 22 threat to Plaintiff’s personal safety,” because Plaintiff
alleges only that “he was not sent the 23 appeal responses in time, violating California Code of
Regulations.” (Id. at 3.)

Therefore, the 24 magistrate judge found the imminent danger exception to Section 1915 does not
apply and 25 recommended the motion to proceed in forma pauperis be denied. (Id. at 4.) 26 The
Court served the Findings and Recommendations on Plaintiff and notified him that 27 any
objections were due within 30 days. (Doc. 8 at 4.)

The Court advised Plaintiff the “failure to 28 file any objections within the specified time may
result in the waiver of certain rights on appeal.” 1 (Id. at 4–5, citing Wilkerson v. Wheeler, 772
F.3d 834, 838-39 (9th Cir. 2014).)

Although 2 Plaintiff did not file objections, he filed a “motion to show facts of imminent danger”
(Doc. 10), a 3 notice of appeal to the Ninth Circuit (Doc. 11), and a second motion to proceed in
forma pauperis 4 (Doc. 12).

The Ninth Circuit dismissed Plaintiff’s appeal for lack of jurisdiction on February 28, 5 2025
(Doc. 16) and its formal mandate on March 24, 2025 (Doc. 17). 6 The Court construes Plaintiff’s
motion to show imminent danger (Doc. 10) as objections 7 to Findings and Recommendations.

However, Plaintiff does not address the specific findings of 8 the magistrate judge. (See generally
id.) Rather, Plaintiff states that “every inmate in CSP 9 Corcoran is at [imminent] danger not only
from the inmates but by the staff.” (Doc. 10 at 1.) He 10 contends the “filed the case against the
Defendants for not wanting to get their staff to take their 11 jobs more serious[ly].” (Id.)

Plaintiff does not dispute the determination that the allegations in his 12 complaint do not show imminent danger. He also does not dispute the magistrate judge's finding 13 that the actions identified qualify as strikes under Section 1915(g). 14 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 15 Having carefully reviewed the entire matter, the Court concludes the Findings and 16 Recommendations are supported by the record and proper analysis.

For the same reasons, the 17 Court also denies Plaintiff's second motion to proceed in forma pauperis filed January 27, 2025. 18 Thus, the Court ORDERS: 19 1. The Findings and Recommendations filed on January 10, 2025 (Doc. 8) are 20 ADOPTED in full. 21 2. Plaintiff's motions to proceed in forma paupers (Docs. 2, 12) are DENIED. 22 3. Plaintiff's motion to show imminent danger (Doc.

10) is DENIED. 23 4. Within 30 days from the date of service of this order, Plaintiff SHALL pay in full 24 the \$405.00 to proceed with his action. 25 /// 26 /// 27 /// 28 /// 1 Plaintiff is advised that failure to pay the required filing fee as ordered will result in 2 the dismissal of this action without prejudice. 3 4 IT IS SO ORDERED. 5 Dated: _ March 24, 2025 Cerin | Tower TED STATES DISTRICT JUDGE 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28