

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jimmie Earl Stephens v. J. Shaffer, et al.

Stephens v. Shaffer · No. 2:24-cv-01785-DC-CSK (PC) · Decided December 30, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations denying Jimmie Earl Stephens’s application to proceed in forma pauperis. The court held that the three-strikes provision of 28 U.S.C. § 1915(g) applied and that Stephens had not shown imminent danger of serious physical injury, ordering him to pay the \$405 filing fee within 30 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dena Coggins
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 30, 2025
DOCKET	2:24-cv-01785-DC-CSK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations de novo after Plaintiff objected to the recommendation that his application to proceed in forma pauperis be denied under the PLRA's three-strikes provision.
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1)(C).
PRECEDENTIAL VALUE	Unknown; district court order and no precedential-status designation appears in the source.

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- in forma pauperis proceedings
- PLRA litigation

QUESTIONS PRESENTED

1. Whether *Canell v. Lightner* overruled or displaced *Tierney v. Kupers* concerning whether dismissals occurring before the PLRA's enactment may qualify as strikes under 28 U.S.C. § 1915(g).
2. Whether Plaintiff established the imminent-danger exception to the PLRA's three-strikes rule based on alleged danger occurring before or after the filing of the complaint.
3. Whether the magistrate judge's findings and recommendations denying in forma pauperis status should be adopted after de novo review.

HOLDINGS

1. Canell did not overrule Tierney because the two cases addressed different issues: Tierney held that pre-PLRA dismissals may qualify as strikes, while Canell held that § 1915(g) does not apply retroactively when IFP status had already been granted before the PLRA's enactment.
2. The imminent-danger exception to § 1915(g) is determined by the conditions the prisoner faced when the complaint was filed, not by danger alleged to have existed only at an earlier or later time.
3. Plaintiff was not entitled to proceed in forma pauperis because he was subject to the three-strikes provision and failed to show that the imminent-danger exception applied.

KEY QUOTATIONS

“The availability of the imminent danger exception turns on the conditions a prisoner faced at the time the complaint was filed, not at some earlier or later time.” (at 2)

FACTUAL BACKGROUND

Jimmie Earl Stephens, a state prisoner, brought a civil-rights action under 42 U.S.C. § 1983 and sought to proceed in forma pauperis. The magistrate judge found that Stephens was subject to the PLRA's three-strikes provision and had not alleged specific facts showing imminent danger of serious physical injury when he filed the action on June 25, 2024, or the first amended complaint on October 31, 2024. Stephens objected, arguing that his prior strikes were invalid and that he had experienced ongoing imminent danger since 2022.

PROCEDURAL HISTORY

Plaintiff filed a 42 U.S.C. § 1983 action and an application to proceed in forma pauperis. The magistrate judge recommended denial of IFP status because Plaintiff had three qualifying strikes under 28 U.S.C. § 1915(g) and had not shown that he faced imminent danger of serious physical injury when he filed the action or first amended complaint. After Plaintiff objected, the district court adopted the findings and recommendations in full, ordered him to pay the \$405 filing fee within thirty days, and referred the matter for further proceedings.

DISPOSITION

other

CASES CITED

- Canell v. Lightner, 143 F.3d 1210 (9th Cir. 1997)
- Tierney v. Kupers, 128 F.3d 1310 (9th Cir. 1997)
- Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JIMMIE EARL STEPHENS, No. 2:24-cv-01785-DC-CSK (PC) 12 Plaintiff,
13 v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING 14 J.
SHAFFER, et al. PLAINTIFF’S APPLICATION TO PROCEED IN FORMA PAUPERIS, AND
DIRECTING 15 Defendants. PLAINTIFF TO PAY THE FILING FEE WITHIN 30 DAYS 16
(Doc.

Nos. 2, 11) 17 18 19 Plaintiff Jimmie Earl Stephens is a state prisoner proceeding pro se in this
civil rights 20 action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States
Magistrate Judge 21 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 22 On March 3,
2025, the magistrate judge issued findings and recommendations 23 recommending that Plaintiff’s
application to proceed in forma pauperis (“IFP”) (Doc.

No. 2) be 24 denied. (Doc. No. 11.) Specifically, the magistrate found Plaintiff’s application
should be denied 25 because: (1) he is subject to the three strikes provision under 28 U.S.C. §
1915(g); and (2) he 26 failed to allege specific facts demonstrating he faced imminent danger of
serious physical injury 27 at the time he filed this action on June 25, 2024, or when he filed the
first amended complaint on 28 October 31, 2024.

(Id. at 3–6.) The magistrate judge also recommended that Plaintiff be ordered 1 to pay the required
\$405.00 filing fee. (Id. at 6.) The findings and recommendations were served 2 on Plaintiff and
contained notice that any objections thereto were to be filed within fourteen (14) 3 days after
service. (Id.) 4 On March 10, 2025, Plaintiff filed objections to the pending findings and 5
recommendations.

(Doc. No. 13.) In his objections, Plaintiff contends his strikes under the Prison 6 Litigation Reform
Act (“PLRA”) are invalid because Canell v. Lightner, 143 F.3d 1210 (9th Cir. 7 1997) “overrules”
Tierney v. Kupers, 128 F.3d 1310 (9th Cir. 1997). (Doc. No. 13 at 2.) 8 Plaintiff’s objection is
unsupported because Canell did not overrule Tierney.

In Tierney, the court 9 held that cases dismissed prior to the PLRA’s April 26, 1996 enactment may
qualify as strikes 10 under 28 U.S.C. § 1915(g). 128 F.3d at 1311–12. In Canell, the district court
addressed a different 11 issue. Therein, the Canell court determined that the three strike provision
in § 1915(g) does not 12 apply retroactively to cases where IFP status was already granted prior to
the enactment of the 13 PLRA.

143 F.3d at 1212–13. Because Canell did not address the issue raised in Tierney it did not 14 overrule Tierney, and as such, does not provide a basis upon which to reject the findings and 15 recommendations. 16 Next, Plaintiff argues the findings and recommendations are flawed because he has 17 experienced an ongoing pattern of imminent danger since 2022. (Doc.

No. 13 at 1–2.) However, 18 Plaintiff’s argument is unpersuasive because “[t]he availability of the imminent danger exception 19 turns on the conditions a prisoner faced at the time the complaint was filed, not at some earlier or 20 later time.” *Andrews v. Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007).

As noted in the findings 21 and recommendations, plaintiff’s allegations fail to demonstrate he was in imminent danger of 22 serious physical injury at the time he filed the instant action or at the time he filed the first 23 amended complaint. (Doc. No. 11 at 4–5.) 24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a 25 de novo review of the case.

Having carefully reviewed the entire file, including Plaintiff’s 26 objections, the court concludes that the findings and recommendations are supported by the 27 record and by proper analysis. 28
//// 1 Accordingly, 2 1.

The findings and recommendations issued on March 3, 2025 (Doc. No. 11) are 3 ADOPTED in full; 4 2. Within thirty (30) days from the date of service of this order, Plaintiff shall pay the 5 \$405.00 filing fee in full in order to proceed with this action; 6 3. Plaintiff is cautioned that failure to pay the filing fee within the specified time will 7 result in the dismissal of this action; and 8 4.

This matter is referred to the assigned magistrate judge for further proceedings 9 consistent with this order. 10 11 b IT IS SO ORDERED. □ 13 | Dated: _December 29, 2025 DUC Dena Coggins
14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28