

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
ARKANSAS, CENTRAL DIVISION

Gary Lynn Conley v. Arkansas Division of Correction, et al.

Conley · No. 4:25-cv-01284-JM-JJV · Decided February 9, 2026

SUMMARY

A United States magistrate judge recommends dismissal without prejudice of Gary Lynn Conley’s civil rights action alleging excessive force and failure to protect. The recommendation concludes that Conley had three qualifying strikes under 28 U.S.C. § 1915(g), did not satisfy the imminent-danger exception, and failed to pay the required filing fee after being denied in forma pauperis status. The recommendation also advises that an appeal from an adopting order would not be taken in good faith.

CASE DETAILS

COURT	United States District Court for the Eastern District of Arkansas, Central Division
JURISDICTION	United States District Court for the Eastern District of Arkansas, Central Division
DECIDED	February 9, 2026
DOCKET	4:25-cv-01284-JM-JJV
DISPOSITION	other
PROCEDURAL POSTURE	A pro se prisoner filed an action alleging excessive force and failure to protect and sought leave to proceed in forma pauperis. After determining that Plaintiff had three strikes under 28 U.S.C. § 1915(g), the magistrate judge denied in forma pauperis status, directed Plaintiff to pay the \$405 filing fee, and recommended dismissal without prejudice when he failed to do so.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

- prisoner litigation
- civil rights
- in forma pauperis procedure

QUESTIONS PRESENTED

1. Whether Plaintiff qualified for the imminent-danger exception to the three-strikes bar in 28 U.S.C. § 1915(g).
2. Whether the action should be dismissed without prejudice after Plaintiff failed to pay the filing fee following denial of in forma pauperis status.

HOLDINGS

1. The allegations did not satisfy the imminent-danger exception because the alleged uses of force occurred months before filing, the alleged assailant no longer worked for the Arkansas Division of Correction, and the allegations of possible future harm were conclusory and vague.
2. The magistrate judge recommended dismissing the complaint without prejudice because Plaintiff did not pay the filing fee after his motion to proceed in forma pauperis was denied and the court's deadline expired.

KEY QUOTATIONS

“By using the term ‘imminent,’ Congress indicated that it wanted to include a safety valve for the three strikes rule to prevent impending harms, not those harms that had already occurred” (at 1)

FACTUAL BACKGROUND

Gary Lynn Conley, an Arkansas prisoner, alleged that Anthony Sifuentes used excessive force against him at the Varner Unit on March 30 and April 3, 2025. He also alleged that several nonparties failed to protect him. Sifuentes no longer worked for the Arkansas Division of Correction when the action was filed, and the court found that the alleged past incidents and broad allegations of future harm did not plausibly establish imminent danger.

PROCEDURAL HISTORY

Plaintiff filed the action on December 12, 2025, and sought to proceed in forma pauperis. The magistrate judge determined that Plaintiff had accumulated three qualifying strikes and that his allegations did not satisfy § 1915(g)'s imminent-danger exception. Plaintiff was given twenty-one days to pay the filing fee but did not do so, leading to this Recommended Disposition advising dismissal without prejudice and closure of the case.

DISPOSITION

other

CASES CITED

- Pinder v. Wellpath, LLC, 112 F.4th 495, 500 (8th Cir. 2024)
- Martin v. Shelton, 319 F.3d 1048, 1050 (8th Cir. 2003)
- Conley v. Arkansas, No. 4:22-cv-00090-BRW (E.D. Ark. Mar. 10, 2022)
- Conley v. Hutchinson, No. 4:22-cv-00353-DPM (E.D. Ark. June 16, 2023)

- Conley v. Jegley, No. 4:24-cv-00016-LPR (E.D. Ark. Jan. 13, 2024)

OPINION

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION GARY LYNN CONLEY ADC #163989 PLAINTIFF v. 4:25-cv-01284-
JM-JJV ARKANSAS DIVISION OF CORRECTION; et al. DEFENDANTS RECOMMENDED
DISPOSITION The following Recommended Disposition (“Recommendation”) has been sent to
United States District Judge James M. Moody Jr. Any party may serve and file written objections
to this Recommendation.

Objections should be specific and include the factual or legal basis for the objection. If the
objection is to a factual finding, specifically identify that finding and the evidence that supports
your objection. Your objections must be received in the office of the United States District Court
Clerk no later than fourteen (14) days from the date of this Recommendation.

Failure to file timely objections may result in a waiver of the right to appeal questions of fact. I.
DISCUSSION On December 12, 2025, Gary Lynn Conley (“Plaintiff”) filed this pro se action
alleging Defendant Anthony Sifuentes used excessive force against him at the Varner Unit on
March 30, 2025 and April 3, 2025, while several non-parties failed to protect him from that use of
force.

(Doc. 1.) He also sought permission to proceed in forma pauperis. (Doc. 3.) However, before filing
this lawsuit Plaintiff accumulated three strikes as defined by 28 U.S.C. § 1915(g).¹ 1 See Conley
v. Arkansas, 4:22-cv-00090-BRW (E.D. Ark. Mar. 10, 2022); Conley v. Hutchinson, 4:22-cv-
00353-DPM (E.D. Ark. Jun. 16, 2023); Conley v. Jegley, 4:24-cv-00016-LPR (E.D.

Ark. Jan. 13, 2024). 1 On January 12, 2026, I concluded Plaintiff’s allegations failed to satisfy the
imminent danger exception in § 1915(g) because: (1) the alleged use of force occurred several
months before Plaintiff filed this lawsuit; (2) Sifuentes, who no longer works for the ADC, did not
currently pose a threat of harm to Plaintiff; and (3) Plaintiff’s broad allegations of potential future
harm were too conclusory and vague.

See Pinder v. Wellpath, LLC, 112 F.4th 495, 500 (8th Cir. 2024) (allegations of imminent danger
must be “plausible” and supported by “specific facts”); Martin v. Shelton, 319 F.3d 1048, 1050
(8th Cir. 2003) (“By using the term ‘imminent,’ Congress indicated that it wanted to include a
safety valve for the three strikes rule to prevent impending harms, not those harms that had already
occurred”).

I then denied Plaintiff’s Motion to Proceed In Forma Pauperis, gave him twenty-one days to pay
the \$405 filing fee in full, and warned him I would recommend dismissal if he did not timely do
so. (Doc. 4.) Plaintiff has not complied with my instructions, and the time for doing so has passed.

Therefore, I recommend the Complaint be dismissed without prejudice. If Plaintiff wishes to proceed with this action, he must pay the \$405 fee in full with his objections to this Recommendation. II. CONCLUSION IT IS, THEREFORE, RECOMMENDED that: 1.

The Complaint (Doc. 1) be DISMISSED without prejudice, and this case be CLOSED. 2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an in forma pauperis appeal from an Order adopting this Recommendation and the accompanying Judgment would not be taken in good faith. 2 Dated this 9th day of February 2026. JOE (YALE UNITRD STATES MAGISTRATE JUDGE