

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, SOUTH BEND DIVISION

Tervarus Gary v. Mango, et al.

Gary v. Mango · No. 3:26-CV-27-CCB-SJF · Decided January 14, 2026

SUMMARY

The United States District Court for the Northern District of Indiana denied Tervarus Gary leave to proceed in forma pauperis under the Prison Litigation Reform Act's three-strikes provision. The court found that Gary's allegations concerning an allegedly threatening remark did not establish imminent danger of serious physical injury, granted him until January 30, 2026, to pay the filing fee, and cautioned that failure to do so would result in dismissal.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, South Bend Division
WRITING FOR THE COURT	Cristal C. Brisco
JURISDICTION	United States District Court for the Northern District of Indiana, South Bend Division
DECIDED	January 14, 2026
DOCKET	3:26-CV-27-CCB-SJF
DISPOSITION	other
PROCEDURAL POSTURE	A pro se prisoner filed a civil-rights complaint and moved for leave to proceed in forma pauperis. The district court denied in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and gave him a deadline to pay the filing fee.
STANDARD OF REVIEW	The court evaluated whether the complaint plausibly alleged that the prisoner was under imminent danger of serious physical injury, as required to avoid the three-strikes bar under 28 U.S.C. § 1915(g).
PRECEDENTIAL VALUE	unpublished, nonprecedential district court opinion

TOPICS

- prisoners rights
- civil rights
- section 1983
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Gary, a prisoner with three qualifying strikes under 28 U.S.C. § 1915(g), plausibly alleged that he was under imminent danger of serious physical injury so that he could proceed in forma pauperis.
2. Whether the alleged verbal threat, without more factual context, plausibly established a genuine emergency or a civil-rights claim.

HOLDINGS

1. A prisoner with three prior qualifying dismissals may not proceed in forma pauperis unless the complaint plausibly shows that the prisoner is under imminent danger of serious physical injury.
2. Gary did not plausibly allege imminent danger because the alleged statement, without additional context, did not establish a real and proximate threat or a genuine emergency.
3. Verbal abuse alone is insufficient to state a civil-rights claim or establish the imminent-danger exception.

KEY QUOTATIONS

“can use the partial prepayment option in §1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” (91 F.3d at 1025)

“To meet the imminent danger standard, the threat complained of must be real and proximate.” (352 F.3d at 330)

“Only ‘genuine emergencies’ qualify as a basis for circumventing § 1915(g).” (279 F.3d at 531)

“Verbal abuse alone is insufficient to state a claim.” (224 F.3d at 612)

“a plaintiff must do better than putting a few words on paper that, in the hands of an imaginative reader, might suggest that something has happened to her that might be redressed by the law.” (614 F.3d at 403)

FACTUAL BACKGROUND

Gary alleged that Sergeant Mango said that he should beat Gary, and that the statement was recorded on body-camera video in front of two other officers. Gary sought monetary damages and asserted that he feared for his life because the incident had not been addressed. The court found no context showing that the remark presented a real and proximate threat or an objective reason for fear of serious physical injury.

PROCEDURAL HISTORY

Tervarus Gary filed a complaint against Sgt. Mango and others and sought leave to proceed in forma pauperis. The court determined that Gary had three prior qualifying dismissals and that his allegations did not establish imminent danger of serious physical injury. The court denied in forma pauperis status, granted Gary until January 30, 2026, to pay the \$405 filing fee, and warned that failure to pay would result in dismissal without further notice.

DISPOSITION

other

CASES CITED

- Gary v. Elkhart County Work Release, No. 3:24-cv-349 (N.D. Ind. filed Apr. 25, 2024)
- Gary v. Elkhart County Sheriffs Department, No. 3:24-cv-340 (N.D. Ind. filed Apr. 22, 2024)
- Gary v. IDOC, No. 3:25-cv-391 (N.D. Ind. filed May 2, 2025)
- Abdul-Wadood v. Nathan, 91 F.3d 1023, 1025 (7th Cir. 1996)
- Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003)
- Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002)
- DeWalt v. Carter, 224 F.3d 607, 612 (7th Cir. 2000)
- Swanson v. Citibank, N.A., 614 F.3d 400, 403 (7th Cir. 2010)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA SOUTH BEND
DIVISION TERVARUS GARY, Plaintiff, v. CAUSE NO. 3:26-CV-27-CCB-SJF MANGO, et al.,
Defendants. OPINION AND ORDER Tervarus Gary, a prisoner without a lawyer, filed a complaint and seeks leave to proceed in forma pauperis. ECF 1 and 2. A prisoner may not bring a civil action in forma pauperis if he has, “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it [was] frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

This is commonly known as the “three strikes” provision. Gary has three strikes: 1. Gary v. Elkhart County Work Release, 3:24-cv-349 (N.D. Ind. filed April 25, 2024), dismissed under 28 U.S.C. § 1915A for failure to state a claim on October 9, 2024; 2. Gary v. Elkhart County Sheriffs Department, 3:24-cv-340 (N.D. Ind. filed April 22, 2024), dismissed as frivolous under 28 U.S.C. § 1915A on May 5, 2025; and 3.

Gary v. IDOC, 3:25-cv-391 (N.D. Ind. filed May 2, 2025), dismissed under 28 U.S.C. § 1915A for failure to state a claim on October 28, 2025. An inmate who has struck out “can use the partial prepayment option in §1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” Abdul-Wadood v. Nathan, 91 F.3d 1023, 1025 (7th Cir. 1996) (quoting 28 U.S.C. § 1915(g)).

To meet the imminent danger standard, the threat complained of must be real and proximate. Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify as a basis for circumventing § 1915(g). Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002).

Here, Gary is seeking monetary damages because Sgt. Mango said, “he should beat my fucking ass.” ECF 1 at 2. Gary alleges this was recorded on body camera video in front of two other officers who said they would address it.

The complaint provides no context for when or how these words were spoken. Gary says he is in fear of his life because the incident was never addressed, but it is unclear how he knows if or how it was addressed. This complaint does not plausibly allege there is an objective reason for him to be afraid based on this, albeit unprofessional, but seemingly offhand remark.

Verbal abuse alone is insufficient to state a claim. *DeWalt v. Carter*, 224 F.3d 607, 612 (7th Cir. 2000). This complaint does not show that Gary has a genuine emergency and his request for only monetary damages indicates that he is not really in serious danger. “[A] plaintiff must do better than putting a few words on paper that, in the hands of an imaginative reader, might suggest that something has happened to her that might be redressed by the law.” *Swanson v. Citibank, N.A.*, 614 F.3d 400, 403 (7th Cir.

2010) (emphasis in original). Therefore, Gary may not proceed in forma pauperis. For these reasons, the court: (1)DENIES Tervarus Gary leave to proceed in forma pauperis (ECF 2); (2)GRANTS Tervarus Gary until January 30, 2026, to pay the \$405 filing fee; and (3)CAUTIONS Tervarus Gary if he does not respond by the deadline, this case will be dismissed without further notice.

SO ORDERED on January 14, 2026. /s/Cristal C. Brisco CRISTAL C. BRISCO, JUDGE
UNITED STATES DISTRICT COURT