

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Brian Keith Alford v. Dr. Hawk, et al.

Case No. 2:25-cv-187 · No. 2:25-cv-187 · Decided March 17, 2026

SUMMARY

The United States District Court for the Southern District of Ohio sustains Brian Keith Alford’s objections to a Report and Recommendation denying in forma pauperis status. The court finds that Alford’s allegations concerning severe and inadequately treated medical conditions sufficiently invoke the imminent-danger exception to the Prison Litigation Reform Act’s three-strikes provision. The matter is returned to the Magistrate Judge for further review of the in forma pauperis application and, if appropriate, screening of the amended complaint.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Michael H. Watson
JURISDICTION	United States District Court for the Southern District of Ohio, Eastern Division
DECIDED	March 17, 2026
DOCKET	2:25-cv-187
DISPOSITION	remanded
PROCEDURAL POSTURE	A prisoner proceeding without counsel objected to a Magistrate Judge's Report and Recommendation recommending denial of leave to proceed in forma pauperis under the Prison Litigation Reform Act's three-strikes provision. The District Court reviewed the objections de novo and sustained them.
STANDARD OF REVIEW	De novo review under Federal Rule of Civil Procedure 72(b) of the portions of the Report and Recommendation to which Plaintiff properly objected.
PRECEDENTIAL VALUE	unpublished district court opinion; limited persuasive value

TOPICS

- prisoners rights
- civil rights
- civil procedure
- health law

PRACTICE AREAS

prisoner civil rights

in forma pauperis procedure

prison medical care

QUESTIONS PRESENTED

1. Whether Plaintiff, despite having accumulated three strikes under the Prison Litigation Reform Act, adequately alleged that he was under imminent danger of serious physical injury so as to qualify for the statutory exception to the three-strikes bar.
2. Whether the objections to the Magistrate Judge's Report and Recommendation should be sustained and the matter returned for further consideration of Plaintiff's in forma pauperis application.

HOLDINGS

1. A prisoner with three qualifying strikes may proceed in forma pauperis when the complaint, liberally construed, alleges facts supporting a reasonable inference that the prisoner was under imminent danger of serious physical injury when the action was filed. Plaintiff's allegations of significant ongoing pain, denial of necessary medication, and delayed surgery sufficiently alleged that exception.
2. Plaintiff's objections were sustained, and the matter was returned to the Magistrate Judge to reconsider the in forma pauperis application in light of the finding that Plaintiff satisfied the imminent-danger exception.

KEY QUOTATIONS

"Under the PLRA, a prisoner who has obtained three strikes for bringing actions that were frivolous, were malicious, or failed to state a claim cannot proceed in forma pauperis on further actions unless the prisoner 'is under imminent danger of serious physical injury.'" (2)

"Construed liberally, these Complaints allege that Plaintiff remains in significant pain, is being denied necessary medication, and requires immediate surgery that is nonetheless being delayed." (3)

"Those allegations sufficiently allege an imminent danger of serious physical injury." (3)

FACTUAL BACKGROUND

Plaintiff, a prisoner, alleged that in December 2024 he was unable to urinate for several days before receiving treatment, eventually requiring a catheter that released blood and urine. He alleged that he subsequently suffered severe pain, lost thirty-six pounds, and was hospitalized, where scans revealed a double kidney infection, a blood clot on his left lung, and a cyst on his left kidney. In later pleadings, he alleged continuing catheterization, rising prostate-specific antigen levels, denial of medication, and delay in necessary prostate surgery that could result in kidney failure or death.

PROCEDURAL HISTORY

Plaintiff moved to proceed in forma pauperis. The Magistrate Judge recommended denying the motion because Plaintiff conceded that he had accumulated three strikes and had not adequately pleaded imminent danger. Plaintiff objected, arguing that his continuing medical conditions and delayed surgery satisfied the imminent-

danger exception. The District Court sustained the objections and returned the matter to the Magistrate Judge for further review of the in forma pauperis application and, if appropriate, initial screening of the Amended Complaint.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter was returned to the Magistrate Judge to (1) proceed with review of Plaintiff's motion for leave to proceed in forma pauperis in light of the finding that the imminent-danger exception was satisfied and (2) if the remaining requirements were met and in forma pauperis status was granted, conduct an initial screening of the Amended Complaint under 28 U.S.C. § 1915(e). The Clerk was directed to terminate ECF Nos. 10, 14, and 15 as pending motions; Plaintiff's second in forma pauperis motion and motion for an extension of time were denied as moot.

CASES CITED

- Ware-Mustapha v. Dixon, No. 23-5605, 2024 WL 1505089, at *1 (6th Cir. Apr. 3, 2024)
- Ryan v. G. Robert Cotton Corr. Fac., No. 20-1305, 2020 WL 9258300, at *3 (6th Cir. Dec. 8, 2020)