

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Saunders Franklin v. Patrick Yeattes, et al.

Franklin · No. 7:25-cv-00782 · Decided January 26, 2026

SUMMARY

The United States District Court for the Western District of Virginia dismissed Saunders Franklin’s § 1983 action without prejudice after denying in forma pauperis status under the Prison Litigation Reform Act’s three-strikes provision. The court found that Franklin failed to pay the filing fee or otherwise respond within the ordered 30-day period.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Thomas T. Cullen
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	January 26, 2026
DOCKET	7:25-cv-00782
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a pro se prisoner civil-rights action under 42 U.S.C. § 1983 and sought leave to proceed in forma pauperis. After the court denied in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and ordered payment of the filing fee, plaintiff failed to pay or otherwise respond.
PRECEDENTIAL VALUE	unpublished

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- civil procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to pay the filing fee after in forma pauperis status was denied.
2. Whether plaintiff's failure to comply with the court's order warranted dismissal.

HOLDINGS

1. A prisoner subject to the three-strikes provision may proceed without prepaying the filing fee only if he alleges sufficient and specific facts showing that he was in imminent danger of serious physical injury when the action was filed; plaintiff did not make that showing.
2. Dismissal without prejudice was warranted because plaintiff failed to pay the filing fee or otherwise respond within 30 days after the court ordered him to do so.

KEY QUOTATIONS

“The imminent-danger exception “is triggered only if the incarcerated person alleges sufficient and specific facts establishing that he or she is in imminent danger of serious physical injury at the time of filing.””

FACTUAL BACKGROUND

Saunders Franklin, proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983 without paying the filing fee and sought leave to proceed in forma pauperis. The court found that he did not establish imminent danger of serious physical injury as required to invoke the exception to the Prison Litigation Reform Act's three-strikes rule. Franklin did not pay the full filing fee or respond to the court's order within the required 30-day period.

PROCEDURAL HISTORY

The court determined that Franklin had not shown that he was in imminent danger of serious physical injury under 28 U.S.C. § 1915(g), denied leave to proceed in forma pauperis, and ordered him to pay the full filing fee within 30 days. After more than 30 days passed without payment or a response, the court dismissed the action without prejudice for failure to comply with the order and failure to pay the filing fee.

DISPOSITION

dismissed

CASES CITED

- Hall v. United States, 44 F.4th 218, 224 (4th Cir. 2022)

OPINION

CLERKS OFFICE US DISTRICT COURT AT ROANOKE, VA IN THE UNITED STATES DISTRICT COURT FILED FOR THE WESTERN DISTRICT OF VIRGINIA January 26, 2026 ROANOKE DIVISION LAURA A. AUSTIN, CLERK ey: /s/ Megan Poff DEPUTY CLERK SAUNDERS FRANKLIN,)) Plaintiff,) Case No. 7:25-cv-00782) v.) MEMORANDUM OPINION) PATRICK YEATTES, ef a,) By: | Hon. Thomas T. Cullen) United States District

Judge Defendants.) Plaintiff Saunders Franklin, proceeding pro se, filed this civil-rights action under 28 U.S.C. § 1983.

(See generally Compl. [ECP No. 1].) Plaintiff did not pay the filing fee before filing his complaint and is instead seeking leave to proceed with this action *in forma pauperis*. (See *zd.*; Prisoner Trust Account Report [ECF No. 2].)

Under the “three-strikes” provision of the Prison Litigation Reform Act, a prisoner who has already had three cases dismissed as frivolous or malicious or for failure to state a claim cannot file a civil action without prepaying the filing fee “unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

The imminent-danger exception “is triggered only if the incarcerated person alleges sufficient and specific facts establishing that he or she is in imminent danger of serious physical injury at the time of filing.” *Hall v. United States*, 44 F.4th 218, 224 (4th Cir. 2022) (“The plain reading of the statute requires that the ‘imminent danger’ exist contemporaneously when the action is filed.”).

Upon finding that Plaintiff had not shown imminent danger under § 1915(g), the court denied Plaintiff leave to proceed *in forma pauperis* and ordered him to pay the full filing fee. (See Order, Dec. 8, 2025 [ECF No. 4]) The court cautioned Plaintiff that failure to pay the fee in full or otherwise respond to the court’s order within 30 days would result in the immediate dismissal of this action without prejudice.

(*Id.*) More than 30 days have since passed, and Plaintiff has not paid the filing fee as ordered. The court will therefore dismiss this action for failure to comply with the court’s order and failure to pay the filing fee.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying order to Plaintiff. ENTERED this 26th day of January, 2026. /s/ Thomas T. Cullen HON. THOMAS T. CULLEN UNITED STATES DISTRICT JUDGE