

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Rico Paul v. Brittany VanVolkenburg, et al.

Paul · No. 4:26-cv-00303-PLC · Decided March 3, 2026

SUMMARY

The United States District Court for the Eastern District of Missouri denied Rico Paul’s application to proceed in forma pauperis under the Prison Litigation Reform Act’s three-strikes provision. The court concluded that the complaint alleged past harms rather than an imminent danger of serious physical injury, dismissed the action without prejudice to filing a fully paid complaint, and denied the motion for appointed counsel as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	March 3, 2026
DOCKET	4:26-cv-00303-PLC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed an incarcerated plaintiff’s complaint and application to proceed in forma pauperis under the Prison Litigation Reform Act and sua sponte determined whether the statutory imminent-danger exception applied.
STANDARD OF REVIEW	The court reviewed and liberally construed the complaint to determine whether it demonstrated that plaintiff was under imminent danger of serious physical injury at the time of filing.
PRECEDENTIAL VALUE	unpublished district court memorandum and order

TOPICS

- prisoners rights
- civil procedure
- civil rights
- damages

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether plaintiff, having accumulated three qualifying dismissals, satisfied the imminent-danger exception to 28 U.S.C. § 1915(g).
2. Whether plaintiff could proceed in forma pauperis under the Prison Litigation Reform Act.
3. Whether plaintiff's motion for appointed counsel remained viable after dismissal of the action.

HOLDINGS

1. A prisoner subject to 28 U.S.C. § 1915(g) may proceed in forma pauperis only if he was under imminent danger of serious physical injury when he filed the complaint; allegations concerning past harm do not satisfy the exception.
2. The application to proceed in forma pauperis was denied because plaintiff had three qualifying strikes and did not establish imminent danger of serious physical injury.

KEY QUOTATIONS

“An inmate subject to § 1915(g) is only eligible to proceed in forma pauperis if he is under imminent danger at the time of filing his complaint.”

“The Court will therefore deny Plaintiff’s Application and dismiss this case without prejudice to the filing of a fully-paid complaint.”

FACTUAL BACKGROUND

Rico Paul, incarcerated at Potosi Correctional Center, asserted claims arising from alleged assaults, inadequate medical care, disciplinary confinement, and grievance-related matters occurring in 2024, 2025, and 2026. He alleged that he had been in imminent danger since arriving at the facility in July 2022 and sought \$600,000 in damages. The court found that the complaint focused on alleged past harm and did not establish imminent danger when the complaint was filed.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint against correctional and medical personnel and applied to proceed without prepaying fees or costs. The court found that he had accumulated three qualifying strikes under 28 U.S.C. § 1915(g), determined that the complaint alleged past rather than imminent harm, denied in forma pauperis status, and dismissed the action without prejudice to filing a fully paid complaint. The court denied plaintiff's motion for appointed counsel as moot.

DISPOSITION

dismissed

CASES CITED

- Jones v. Bock, 549 U.S. 199, 204 (2007)

- Orr v. Clements, 688 F.3d 463, 464 (8th Cir. 2012)
- Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998)

OPINION

Paul

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MISSOURI

EASTERN DIVISION

RICO PAUL,)

) Plaintiff,)) V.) Case No. 4:26-cv-00303-PLC) BRITTANY VANVOLKENBURG, et al.,))
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court for review of Plaintiff Rico Paul's Complaint and Application to proceed in forma pauperis. For the following reasons, the Court will deny Plaintiff's Application and dismiss this case without prejudice. The Court will also deny as moot Plaintiff's Motion seeking appointed counsel. Plaintiff is incarcerated in the Potosi Correctional Center ("PCC"), and is a "prisoner" as defined in 28 U.S.C. § 1915(h). He is therefore subject to the provisions of the Prison Litigation Reform Act of 1996, which "enacted a variety of reforms designed to filter out the bad [prisoner] claims and facilitate consideration of the good." *Jones v. Bock*, 549 U.S. 199, 204 (2007). One of those reforms is what is commonly described as the "three strikes" provision of 28 U.S.C. § 1915(g). *Orr v. Clements*, 688 F.3d 463, 464 (8th Cir. 2012). It provides: In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 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 is 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 Court's publicly-available electronic records show that Plaintiff, while incarcerated, brought the following three cases that were dismissed for failure to state a claim upon which relief may be granted: *Paul v. Teddford, et al.*, No. 4:19-cv-01851-DDN (E.D. Mo. Sept. 11, 2019); *Paul v. Smallen, et al.*, No. 4:19-cv-02244-HEA (E.D. Mo. Mar. 27, 2020); and *Paul v. Muse, et al.*, No. 4:24-cv-00230-SPM (E.D. Mo. May 23, 2024). As a result, this Court cannot grant Plaintiff leave to proceed in forma pauperis unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Plaintiff filed the Complaint on or about March 2, 2026 against 12 individuals he identifies as correctional officers, a nurse, a caseworker, a Deputy Division Director, and an Assistant Warden. Plaintiff asserts claims that are based on separate events that occurred in 2024, 2025, and 2026. First, Plaintiff claims he was assaulted with pepper spray on January 29, 2025. He was placed on suicide watch and denied adequate medical care, and medical personnel failed to

follow their own policy and procedure. Next, Plaintiff describes his December 27, 2024 argument with a sergeant concerning a missing television. Plaintiff claims the sergeant poked his head with her finger, and after Plaintiff “restrained her from assaulting [him] any further,” he was sent to the hole. Doc. | at 12. Finally, Plaintiff claims he was assaulted by corrections officers on February 12, 2026. Plaintiff describes grieving the matters that form the bases of his claims, and appears to believe his grievances were not properly addressed. Plaintiff provides copies of his grievance materials. Doc. 1-2 and 1-3. Plaintiff states he has been in imminent danger since he arrived at the PCC on July 15, 2022. He seeks \$600,000 in damages. Having thoroughly reviewed and liberally construed the Complaint, the Court finds that it does not show that Plaintiff is under imminent danger of serious physical injury. An inmate subject to § 1915(g) is only eligible to proceed in forma pauperis if he is under imminent danger at the time of filing his complaint. *Ashley v. Dilworth*, 147 F.3d 715, 717 (8th Cir. 1998). Plaintiff’s Complaint clearly focuses on allegations of past harm, which do not trigger the exception to section 1915(g). See *id*. The Court will therefore deny Plaintiff’s Application and dismiss this case without prejudice to the filing of a fully-paid complaint. Because the Court is dismissing this case at this time, the Court will deny as moot Plaintiff’s Motion seeking appointed counsel. Accordingly, IT IS HEREBY ORDERED that Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs is DENIED. Doc. 2. IT IS FURTHER ORDERED that this action is DISMISSED without prejudice. A separate order of dismissal will be entered with this Memorandum and Order. IT IS FURTHER ORDERED that Plaintiff’s Motion to Appoint Counsel is DE-NIED as moot. Doc. 4. Dated this EF By of March, 2026. eet get ee
SENIOR UNITED STATES DISTRICT JUDGE