

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Houston Byrd, aka Kebra Nagast v. Van Dyken, North Park Seniors
Manager Jane Doe; Housing Commission Manager Jane Doe

Case No. 25-cv-2011-RSH-BJW · No. 25-cv-2011-RSH-BJW · Decided January 5, 2026

SUMMARY

The United States District Court for the Southern District of California denied Houston Byrd's motion to proceed in forma pauperis under the Prison Litigation Reform Act's three-strikes provision, finding no applicable imminent-danger exception. The court dismissed the § 1983 and ADA action without prejudice for failure to pay the required filing fee, denied a motion to postpone as moot, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 5, 2026
DOCKET	25-cv-2011-RSH-BJW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se civil-rights action under 42 U.S.C. § 1983 and the Americans with Disabilities Act without paying the filing fee, and moved to proceed in forma pauperis and to postpone the case until his release from custody.
STANDARD OF REVIEW	The court reviewed the IFP application under 28 U.S.C. §§ 1915(a) and 1915(g), considering whether Plaintiff had three or more qualifying prior dismissals and whether his pleadings plausibly alleged imminent danger of serious physical injury at the time of filing.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Houston Byrd, aka Kebra Nagast v. Van Dyken, North Park Seniors Manager Jane Doe, Housing Commission Manager Jane Doe

TOPICS

prisoners rights

civil procedure

section 1983

ada / disability

PRACTICE AREAS

federal civil procedure

prisoner litigation

civil rights

in forma pauperis proceedings

disability discrimination

QUESTIONS PRESENTED

1. Whether Plaintiff was barred from proceeding in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g).
2. Whether Plaintiff plausibly alleged that he faced imminent danger of serious physical injury sufficient to invoke the exception to § 1915(g).
3. Whether the action had to be dismissed without prejudice because Plaintiff neither paid the filing fee nor qualified for IFP status.
4. Whether Plaintiff's motion to postpone the case should be denied as moot.

HOLDINGS

1. Plaintiff was barred from proceeding in forma pauperis because he had more than three prior prisoner civil actions dismissed on grounds qualifying as strikes under § 1915(g).
2. Plaintiff did not qualify for the imminent-danger exception because his complaint and supporting declarations did not plausibly allege imminent or ongoing physical danger at the time of filing.
3. The civil action was dismissed without prejudice because Plaintiff did not pay the full filing fee and was not entitled to proceed IFP.
4. The motion to postpone was denied as moot because the action was dismissed without prejudice.

KEY QUOTATIONS

“That rule generally prevents a prisoner from bringing suit in forma pauperis (IFP)—that is, without first paying the filing fee—if he has had three or more prior suits ‘dismissed on the grounds that [they were] frivolous, malicious, or fail[ed] to state a claim upon which relief may be granted.’” (at 2)

“Because Plaintiff accumulated these prior strike dismissals while incarcerated, he may not proceed IFP in this case unless he meets § 1915(g)’s “imminent danger” exception.” (at 4)

“Because Plaintiff did not pay the full \$405 statutory and administrative filing fee required by 28 U.S.C. § 1914(a), his litigation history precludes proceeding IFP, and he was not in imminent danger of serious physical injury at the time he filed his Complaint and therefore does not qualify for § 1915(g)’s exception to the three-strikes rule, his suit is subject to dismissal.” (at 6-7)

FACTUAL BACKGROUND

Plaintiff, a pretrial detainee, sued a property manager and unidentified housing commissioners over alleged destruction of his television, harassment, stalking, conspiracy, retaliation, discrimination, and ADA violations

arising from an October 2024 altercation that allegedly led to his arrest and eviction. He filed the action without paying the filing fee and sought IFP status. The court found that his allegations concerned past events and did not plausibly show imminent or ongoing physical danger when the complaint was filed.

PROCEDURAL HISTORY

Plaintiff filed the complaint and an IFP motion while detained in the San Diego Central Jail. The court determined that Plaintiff had accumulated at least four qualifying strikes under 28 U.S.C. § 1915(g) and had not plausibly alleged imminent danger of serious physical injury. Because Plaintiff did not pay the full filing fee, the court denied IFP status, dismissed the action without prejudice, denied the motion to postpone as moot, certified that an IFP appeal would not be taken in good faith, and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Andrews v. Cervantes, 493 F.3d 1047, 1051-52, 1055-56 (9th Cir. 2007)
- Moore v. Maricopa County Sheriff's Office, 657 F.3d 890, 892 (9th Cir. 2011)
- Lomax v. Ortiz-Marquez, 590 U.S. 595, 597 (2020)
- Jones v. Bock, 549 U.S. 199, 203 (2007)
- Ray v. Lara, 31 F.4th 692, 697, 701 (9th Cir. 2022)
- Harris v. Mangum, 863 F.3d 1133, 1139, 1142-43 (9th Cir. 2017)
- El-Shaddai v. Zamora, 833 F.3d 1036, 1042 (9th Cir. 2016)
- Blakely v. Wards, 738 F.3d 607, 615 (4th Cir. 2013)
- Hoffman v. Pulido, 928 F.3d 1147, 1152 (9th Cir. 2019)
- Harris v. Harris, 935 F.3d 670, 673 (9th Cir. 2019)
- Andrews v. King, 398 F.3d 1113, 1120 (9th Cir. 2005)
- United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980)
- Hernandez v. Williams, No. 21-cv-347-MMA-KSC, 2021 WL 1317376, at *2 (S.D. Cal. Apr. 8, 2021)
- Allen v. Villanueva, No. 3:20-cv-02334-WQH-WVG, 2021 WL 614995, at *2 (S.D. Cal. Feb. 16, 2021)
- Cohea v. Davey, No. 1:19-CV-01281-LJO-SAB (PC), 2019 WL 5446490, at *1 (E.D. Cal. Oct. 24, 2019)
- Tyler v. Matruz, No. 25-CV-01337-CAB-DEB, 2025 WL 2441043, at *3 (S.D. Cal. Aug. 25, 2025)
- Harris v. Phillips, No. 1:23-CV-01051-SAB (PC), 2023 WL 5103357, at *2 (E.D. Cal. July 17, 2023)
- Hymas v. U.S. Department of the Interior, 73 F.4th 763, 765 (9th Cir. 2023)