

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Nina Mae Becker v. State of Arizona, et al.

No. CV-25-04270-PHX-JAT (JZB) · No. No. CV-25-04270-PHX-JAT (JZB) · Decided January 13, 2026

SUMMARY

The United States District Court for the District of Arizona denied Nina Mae Becker’s applications to proceed in forma pauperis after determining that she had at least three qualifying strikes under 28 U.S.C. § 1915(g). The court found that her allegations concerning the inability to vote or run for political office while incarcerated did not establish imminent danger of serious physical injury. The complaint and action were dismissed without prejudice, and the court directed the Clerk to enter judgment and close the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                              |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Arizona                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | James A. Teilborg                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | United States District Court for the District of Arizona                                                                                                                                                                                                                                                     |
| DECIDED               | January 13, 2026                                                                                                                                                                                                                                                                                             |
| DOCKET                | No. CV-25-04270-PHX-JAT (JZB)                                                                                                                                                                                                                                                                                |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Plaintiff filed a pro se civil-rights complaint under 42 U.S.C. § 1983 and an application to proceed in forma pauperis. After the court issued an order to show cause concerning the three-strikes provision of 28 U.S.C. § 1915(g), Plaintiff failed to respond and filed a notice of interlocutory appeal. |
| PRECEDENTIAL VALUE    | Unknown                                                                                                                                                                                                                                                                                                      |
| PARTIES               | Nina Mae Becker v. State of Arizona, et al.                                                                                                                                                                                                                                                                  |

TOPICS

- prisoners rights
- section 1983
- appellate jurisdiction
- civil rights
- election law

PRACTICE AREAS

- Prisoner civil rights
- Federal civil procedure
- Appellate jurisdiction
- In forma pauperis proceedings
- Election law

## QUESTIONS PRESENTED

1. Whether Plaintiff's notice of interlocutory appeal from the nonfinal order to show cause divested the district court of jurisdiction.
2. Whether Plaintiff qualified for in forma pauperis status despite at least three prior dismissals under 28 U.S.C. § 1915(g).
3. Whether Plaintiff satisfied the imminent-danger exception to § 1915(g) based on allegations concerning her inability to vote or run for political office while incarcerated.

## HOLDINGS

1. A notice of appeal from a nonfinal, nonappealable order to show cause does not transfer jurisdiction to the appellate court, so the district court retained jurisdiction to resolve the case.
2. Plaintiff was not entitled to proceed in forma pauperis because the prior actions or appeals identified by the court qualified as at least three strikes under 28 U.S.C. § 1915(g), and Plaintiff failed to rebut that conclusion.
3. Plaintiff's allegations concerning her inability to vote and run for political office while incarcerated did not establish imminent danger of serious physical injury under § 1915(g).

## KEY QUOTATIONS

*“When a Notice of Appeal is defective in that it refers to a non-appealable interlocutory order, it does not transfer jurisdiction to the appellate court, and so the ordinary rule that the district court cannot act until the mandate has issued on the appeal does not apply.” (1)*

*“[Section] 1915(g) should be used to deny a prisoner’s IFP status only when, after careful evaluation of the order dismissing an action, and other relevant information, the district court determines that the action was dismissed because it was frivolous, malicious or failed to state a claim.” (1)*

## FACTUAL BACKGROUND

Nina Mae Becker, who was confined in the Maricopa County Jail, filed a pro se § 1983 complaint alleging that she could not vote or run for political office while incarcerated. The court identified at least three prior actions or appeals dismissed for failure to state a claim, and Becker did not dispute those dismissals or establish that she faced imminent danger of serious physical injury.

## PROCEDURAL HISTORY

Plaintiff filed the complaint and an initial in forma pauperis application on November 14, 2025. The court issued an order to show cause on December 8, 2025, identifying prior dismissals that potentially qualified as strikes under § 1915(g). Plaintiff filed additional in forma pauperis applications and a notice of interlocutory appeal but did not respond to the order to show cause. The district court denied the in forma pauperis applications and dismissed the action without prejudice.

## DISPOSITION

dismissed

#### CASES CITED

- Nascimento v. Dummer, 508 F.3d 905, 908 (9th Cir. 2007)
- Andrews v. King, 398 F.3d 1113, 1120-21 (9th Cir. 2005)
- Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003)
- Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002)
- Kinnell v. Graves, 265 F.3d 1125, 1128 (10th Cir. 2001)
- Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007)
- Taylor v. Watkins, 623 F.3d 483, 485 (7th Cir. 2010)
- Becker v. Federal Bureau of Prisons, CV-18-02791-PHX-JAT (BSB)
- Becker v. Penzone, CV 23-01216-PHX-JAT (ESW)
- Becker v. Mayes, CV-25-03333-PHX-JAT (ESW)

#### OPINION

Becker

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Nina Mae Becker, No. CV-25-04270-PHX-JAT (JZB) 10 Plaintiff, 11 v. ORDER 12 State of  
Arizona, et al., 13 Defendants. 14 15 On November 14, 2025, Plaintiff Nina Mae Becker, who is  
confined in a Maricopa 16 County Jail, filed a pro se civil rights Complaint pursuant to 42 U.S.C.  
§ 1983 and an 17 Application to Proceed In Forma Pauperis (Doc. 2). Because it appeared that  
Plaintiff has 18 at least “three strikes” under 28 U.S.C. § 1915(g), the Court issued a December 8,  
2025 19 Order to Show Cause that delineated Plaintiff’s prior dismissals, notified Plaintiff of her  
20 potential disqualification under § 1915(g), and gave her 30 days to either pay the filing and 21  
administrative fees or show cause why her prior dismissals did not preclude her in forma 22  
pauperis status under § 1915(g). 23 On December 12, 2025, Plaintiff a second Application to  
Proceed In Forma Pauperis 24 (Doc. 7). On December 15, 2025, she filed an Application to  
Proceed In Forma Pauperis 25 on Appeal (Doc. 9) and a Notice of Interlocutory Appeal in the  
Ninth Circuit Court of 26 Appeals. Plaintiff failed to file a Response to the Order to Show Cause.  
Pursuant to 28 27 U.S.C. § 1915(g), the Court will deny the November 14, 2025 Application to  
Proceed, deny 28 1 the December 12 and 15 Applications to Proceed as moot, and dismiss the  
Complaint and 2 this action without prejudice. 3 I. Notice of Interlocutory Appeal 4 As an initial  
matter, Plaintiff’s Notice of Interlocutory Appeal does not divest the 5 Court of jurisdiction over

this matter because the Order to Show Cause was not a final, 6 appealable Order. See 28 U.S.C. § 1291; *Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007) (“When a Notice of Appeal is defective in that it refers to a non-appealable 8 interlocutory order, it does not transfer jurisdiction to the appellate court, and so the 9 ordinary rule that the district court cannot act until the mandate has issued on the appeal 10 does not apply.”) 11 II. Dismissal Pursuant to 28 U.S.C. § 1915(g) 12 A prisoner may not bring a civil action or appeal a civil judgment in forma pauperis 13 (“IFP”) if: 14 the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or 15 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 16 upon which relief may be granted, unless the prisoner is under 17 imminent danger of serious physical injury. 18 28 U.S.C. § 1915(g). 19 “[Section] 1915(g) should be used to deny a prisoner’s IFP status only when, after 20 careful evaluation of the order dismissing an action, and other relevant information, the 21 district court determines that the action was dismissed because it was frivolous, malicious 22 or failed to state a claim.” *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). “In 23 some instances, the district court docket records may be sufficient to show that a prior 24 dismissal satisfies at least one of the criteria under § 1915(g) and therefore counts as a 25 strike.” *Id.* at 1120. 26 By failing to respond to the Order to Show Cause, Plaintiff fails to dispute that the 27 prior actions or appeals identified in the Court’s December 8, 2025 Order to Show Cause<sup>1</sup> 28 1 *Becker v. Federal Bureau of Prisons*, CV-18-02791-PHX-JAT (BSB) (dismissed 1 were dismissed for failure to state a claim. The Court concludes that the prior actions or 2 appeals identified in the Court’s December 8, 2025 Order qualify as “strikes” under 3 § 1915(g). 4 III. Imminent Danger 5 A plaintiff who has three or more strikes may not bring a civil action without 6 complete prepayment of the \$350.00 filing fee and \$55.00 administrative fee unless she is 7 in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). To meet the 8 “imminent danger” requirement, the “threat or prison condition [must be] real and 9 proximate,” *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003) (quoting *Lewis v. 10 Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002)), and the allegations must be “specific or 11 credible.” *Kinnell v. Graves*, 265 F.3d 1125, 1128 (10th Cir. 2001). “[T]he exception 12 applies if the complaint makes a plausible allegation that the prisoner faced ‘imminent 13 danger of serious physical injury’ at the time of filing.” *Andrews v. Cervantes*, 493 F.3d 14 1047, 1055 (9th Cir. 2007) (quoting § 1915(g)). Moreover, although a court considering a 15 motion to proceed in forma pauperis, “should not attempt to evaluate the seriousness of a 16 plaintiff’s claims[, . . . ] it has never been the rule that courts must blindly accept a 17 prisoner’s allegations of imminent danger.” *Taylor v. Watkins*, 623 F.3d 483, 485 (7th Cir. 18 2010). 19 In the Complaint, Plaintiff makes allegations regarding her inability to vote and run 20 for political office while incarcerated. These allegations do not show that Plaintiff is in 21 imminent danger of serious physical injury. 22 IV. Conclusion 23 The Court will deny Plaintiff’s November 14, 2025 Application to Proceed In Forma 24 Pauperis and will dismiss Plaintiff’s Complaint and this action, without prejudice, pursuant 25 to § 1915(g). If

Plaintiff wants to reassert these claims in the future, she must prepay the 26 entire \$405.00 filing and administrative fees when she files her action. 27 Oct. 29, 2018 for failure to state a claim); Becker v. Penzone, CV 23-01216-PHX-JAT 28 (ESW) (dismissed Dec. 20, 2023 for failure to state a claim); Becker v. Mayes, CV-25- 03333-PHX-JAT (ESW) (dismissed Nov. 17, 2025 for failure to state a claim). 1) ITIS ORDERED: 2 (1) ~~ Plaintiff's November 14, 2025 Application to Proceed In Forma Pauperis (Doc. 2) is denied. 4 (2) Plaintiff's December 12, 2025 (Doc. 7) and December 15, 2025 (Doc. 9) 5 | Applications to Proceed In Forma Pauperis are denied as moot. 6 (3) Plaintiff's Complaint (Doc. 1) and this action are dismissed without prejudice, pursuant to 28 U.S.C. § 1915(g). If Plaintiff wishes to reassert these claims in the future, she must prepay the entire \$405.00 filing and administrative fees when she files 9| her action. 10 (4) The Clerk of Court must enter judgment accordingly and close this case. 1] Dated this 13th day of January, 2026. 12 14 15 \_ James A. Teil Org Senior United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28