

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Allen Hammler v. J. Peluso, et al.

Hammler v. Peluso · No. 2:25-cv-03303 SCR P · Decided December 3, 2025

SUMMARY

The United States District Court for the Eastern District of California orders incarcerated plaintiff Allen Hammler to pay the entire filing fee in his 42 U.S.C. § 1983 action. The court finds that Hammler had accrued three prior strikes under 28 U.S.C. § 1915(g) and had not alleged facts showing that he was under imminent danger of serious physical injury when he filed the complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 3, 2025
DOCKET	2:25-cv-03303 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, an incarcerated pro se litigant, filed a civil-rights action under 42 U.S.C. § 1983 without paying the filing fee or seeking in forma pauperis status. The court considered whether he could proceed without prepaying the fee under the three-strikes provision of the Prison Litigation Reform Act.
STANDARD OF REVIEW	The court reviewed the complaint to determine whether its allegations plausibly demonstrated that plaintiff was under imminent danger of serious physical injury at the time of filing.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff, having accrued three prior strikes under the Prison Litigation Reform Act, could proceed in forma pauperis without paying the filing fee.
2. Whether the complaint alleged that plaintiff was under imminent danger of serious physical injury at the time of filing, thereby qualifying for the statutory exception to the three-strikes rule.

HOLDINGS

1. A prisoner who has accrued three prior strikes is precluded from proceeding in forma pauperis unless the complaint alleges that the prisoner was under imminent danger of serious physical injury at the time of filing.
2. Because plaintiff did not satisfy the imminent-danger exception, he was required to pay the entire \$405 filing fee within thirty days or face dismissal.

KEY QUOTATIONS

“it is the circumstances at the time of the filing of the complaint that matters for purposes of the ‘imminent danger’ exception to § 1915(g)” (at 2)

FACTUAL BACKGROUND

Plaintiff is incarcerated in state prison and alleged an excessive-force incident occurring on January 7, 2022, at a different prison from the one where he is currently incarcerated. He did not allege facts suggesting that the incident was likely to recur or that he faced an imminent danger of serious physical injury when he filed the complaint. Court records showed that he had previously been determined to be a three-strikes litigant.

PROCEDURAL HISTORY

Plaintiff filed the complaint on November 13, 2025. The court observed that another judge had previously determined that plaintiff was a three-strikes litigant and that plaintiff had neither paid the filing fee nor moved to proceed in forma pauperis. The court ordered plaintiff to pay the entire \$405 filing fee within thirty days, warning that failure to do so would result in dismissal.

DISPOSITION

other

CASES CITED

- Hammler v. Godfry, No. 1:25-cv-0728 KES-BAM (PC), 2025 WL 2391075, at *1 (E.D. Cal. Aug. 18, 2025), report and recommendation adopted, No. 1:25-cv-0728 KES-BAM (PC), 2025 WL 2695561 (E.D. Cal. Sept. 22, 2025)
- Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)

OPINION

Peluso

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 ALLEN HAMMLER, No. 2:25-cv-03303 SCR P

12 Plaintiff, 13 v. ORDER 14 J. PELUSO, et al., 15 Defendants. 16 17 Plaintiff is incarcerated in
state prison and proceeding pro se with this civil rights action 18 under 42 U.S.C. § 1983. This
action is referred to the undersigned pursuant to Local Rule 302 19 pursuant to 28 U.S.C. § 636(b)
(1). 20 Plaintiff has not paid the court's filing fee or requested leave to proceed in forma pauperis
21 pursuant to 28 U.S.C. § 1915. Typically, the court would provide plaintiff the opportunity to 22
submit a motion to proceed in forma pauperis. However, a review of court records shows that 23
another judge determined plaintiff was a three-strikes litigant before he filed the complaint in this
24 action on November 13, 2025. See Hammler v. Godfry, No. 1:25-cv-0728 KES-BAM (PC),
2025 25 WL 2391075, at *1 (E.D. Cal. Aug. 18, 2025), report and recommendation adopted, No.
1:25-cv- 26 0728 KES BAM (PC), 2025 WL 2695561 (E.D. Cal. Sept. 22, 2025). Because
plaintiff has 27 accrued three prior strikes, he is precluded from proceeding in forma pauperis in
this action 28 unless he is "under imminent danger of serious physical injury." 28 U.S.C. §
1915(g).] The imminent danger exception applies at the time of filing the complaint. See Andrews
2 || v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007) (emphasizing that "it is the circumstances at
3 || the time of the filing of the complaint that matters for purposes of the 'imminent danger' 4 |
exception to § 1915(g)"). Plaintiff has not alleged any facts in the complaint that suggest that he 5
|| is under imminent danger of serious physical injury. The allegations pertain to an incident of 6 ||
excessive force on January 7, 2022, at a different prison than where plaintiff is incarcerated now. 7
|| ECF No. 1 at 2-3. Plaintiff does not allege any facts that would suggest that the event is likely to
8 | reoccur. Thus, plaintiff must submit the appropriate filing fee in order to proceed with this
action. 9 Accordingly, IT IS HEREBY ORDERED that plaintiff pay the entire \$405.00 in filing 10
| fees within thirty days from the date of this order or face dismissal of the case. 11 | DATED:
December 2, 2025 12 13

14 SEAN C. RIORDAN

15 UNITED STATES MAGISTRATE JUDGE

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