

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PRECEDENTIAL VALUE	unpublished district court order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)

