

**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

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 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 16 17 18
19 20 21 22 23 24 25 26 27 28