

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS

Lettieri v. Matthew F. Kennelly, et al.

Lettieri v. Kennelly, Civil Action No. 25-13086-BEM (D. Mass. Jan. 16, 2025) · No. 25-13086-BEM · Decided
January 15, 2026

SUMMARY

The United States District Court for the District of Massachusetts denied David C. Lettieri’s motion to proceed in forma pauperis in a civil action concerning prison mail handling and allegations involving federal judicial and correctional staff. The court concluded that Lettieri had three or more qualifying prior dismissals under 28 U.S.C. § 1915(g) and had not shown that he was under imminent danger of serious physical injury. The court directed him to pay the filing fee within 28 days or face dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the District of Massachusetts
WRITING FOR THE COURT	Brian E. Murphy
JURISDICTION	United States District Court for the District of Massachusetts
DECIDED	January 15, 2026
DOCKET	25-13086-BEM
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner brought a non-habeas civil action and moved for leave to proceed in forma pauperis. The district court considered whether the Prison Litigation Reform Act's three-strikes exception permitted him to proceed without prepaying the filing fee.
STANDARD OF REVIEW	The court applied the statutory eligibility requirements for proceeding in forma pauperis under 28 U.S.C. § 1915, including the imminent-danger exception to the three-strikes bar.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	David C. Lettieri v. Matthew F. Kennelly, et al.

TOPICS

- prisoners rights
- civil procedure

PRACTICE AREAS

prisoner litigation

civil procedure

in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Lettieri was barred by the Prison Litigation Reform Act's three-strikes provision from proceeding in forma pauperis.
2. Whether Lettieri's allegations established that he was under imminent danger of serious physical injury so as to invoke the statutory exception to the three-strikes bar.
3. Whether the failure to provide the six-month prison-account statement independently supported denial of in forma pauperis status.

HOLDINGS

1. Lettieri was a three-strikes litigant because he had previously filed at least three prisoner actions that were dismissed for failure to state a claim.
2. Lettieri's speculative allegations about a possible transfer to a more dangerous prison did not establish that he was under imminent danger of serious physical injury.
3. The motion for leave to proceed in forma pauperis was denied with prejudice.

KEY QUOTATIONS

“These speculative allegations of possible injury if he is transferred to a different prison are insufficient to show that he is “under imminent danger of serious physical injury.””

FACTUAL BACKGROUND

Lettieri, a federal prisoner confined at FMC Devens, alleged that mailroom personnel opened mail from the United States District Court for the Northern District of Illinois outside his presence and failed to treat it as legal mail. He also alleged that staff threatened to transfer him if he continued filing informal grievances and speculated that a transfer could expose him to danger because he had difficulty speaking due to a paralyzed vocal cord. The court found these allegations insufficient to show imminent danger of serious physical injury.

PROCEDURAL HISTORY

Lettieri filed a civil complaint challenging the dismissal of another action and alleging that FMC Devens personnel improperly opened his legal mail. He also moved to proceed in forma pauperis but did not submit the required six-month prison-account statement. The court determined that he had accumulated at least three qualifying strikes and that his allegations did not establish imminent danger of serious physical injury. The court denied in forma pauperis status with prejudice and ordered him to pay the filing fee within twenty-eight days or face dismissal without prejudice.

DISPOSITION

CASES CITED

- *Pettus v. Morgenthau*, 554 F.3d 293, 297 (2d Cir. 2009)
- *Lettieri v. Daniels*, No. 23-00867, ECF No. 3 (W.D.N.Y. Oct. 16, 2023)
- *Lettieri v. Reynolds*, No. 23-00925, ECF No. 4 (W.D.N.Y. Oct. 17, 2023)
- *Lettieri v. Northeast Ohio Corr. Ctr.*, No. 23-01690, ECF No. 5 (N.D. Ohio Nov. 22, 2023)
- *Lettieri v. Federal Marshals*, No. 23-01872, ECF No. 6 (N.D. Ohio Nov. 30, 2023)
- *Lettieri v. New York State Troopers*, No. 23-02077, ECF No. 4 (N.D. Ohio Nov. 21, 2023)
- *Lettieri v. Northeast Ohio Corr. Ctr.*, No. 23-02172, ECF No. 4 (N.D. Ohio Dec. 11, 2023)
- *Lettieri v. Santander Bank N.A.*, No. 24-10361-AK, ECF No. 4 (D. Mass. Mar. 15, 2024)
- *Lettieri v. Santander Bank N.A.*, No. 24-1781, 2025 WL 2823585, at *1 (1st Cir. June 18, 2025)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS) DAVID C. LETTIERI,)) Plaintiff,)) v.) Civil Action No.) 25-13086-BEM MATTHEW F. KENNELLY, et al.,)) Defendants.)) ORDER MURPHY, J. On August 13, 2025, pro se plaintiff David C. Lettieri, who is confined at FMC Devens, filed a civil complaint, Dkt. No. 1 (“Compl.”), and a motion for leave to proceed in forma pauperis, Dkt.

No. 3.1 Lettieri brings this action against Judge Matthew F. Kennelly of the United States District Court for Northern District of Illinois and FMC Devens staff. Lettieri challenges Judge Vilardo’s dismissal of *Lettieri v. Court of Clerk Chicago Division*, C.A. No. 25-03591 (N.D. Ill.). With regard to FMC Devens staff, Lettieri alleges mailroom personnel failed to treat mail addressed to Lettieri from the United States District Court for the Northern District of Illinois as “Legal Mail” and unlawfully opened it outside of his presence.

Lettieri further alleges that he did not file a grievance concerning the mail because, in March 2025, FMC Devens staff threatened to transfer him to another prison if he continued to file informal grievances. Under the Prison Litigation Reform Act, a prisoner bringing a non-habeas action generally cannot proceed in forma pauperis if he has, on three or more prior occasions, filed an action or 1 Lettieri did not include the six-month prison account statement required under 28 U.S.C. § 1915(a)(2). appeal that was dismissed on the ground that it was frivolous, was malicious, or failed to state a claim upon which relief may be granted.

See 28 U.S.C. § 1915(g). Where a prisoner has “three strikes,” he may only proceed in forma pauperis if he is “under imminent danger of serious physical injury” with regard to the misconduct alleged in the complaint. *Id.*; see also *Pettus v. Morgenthau*, 554 F.3d 293, 297 (2d Cir. 2009)

(“[T]here must be a nexus between the imminent danger a three-strikes prisoner alleges to obtain IFP status[,] and the legal claims asserted in his complaint.”).

Lettieri has, while a prisoner, filed three or more actions in federal district courts that were dismissed for failure to state a claim upon which relief may be granted. See *Lettieri v. Daniels*, No. 23-00867, ECF No. 3 (W.D.N.Y. Oct. 16, 2023); *Lettieri v. Reynolds*, No. 23-00925, ECF No. 4 (W.D.N.Y. Oct. 17, 2023); *Lettieri v. Northeast Ohio Corr. Ctr.*, No. 23-01690, ECF No. 5 (N.D.

Ohio Nov. 22, 2023); *Lettieri v. Federal Marshals*, No. 23-01872, ECF No. 6 (N.D. Ohio Nov. 30, 2023); *Lettieri v. New York State Troopers*, No. 23-02077, ECF No. 4 (N.D. Ohio Nov. 21, 2023); *Lettieri v. Northeast Ohio Corr. Ctr.*, No. 23-02172, ECF No. 4 (N.D. Ohio Dec. 11, 2023). Indeed, prior to the commencement of this action, this Court had already determined that Lettieri is a “three strikes” litigant.

See, e.g., *Lettieri v. Santander Bank N.A.*, No. 24-10361-AK, ECF No. 4 (D. Mass. Mar. 15, 2024), and the United States Court of Appeals for the First Circuit has come to the same conclusion, see *Lettieri v. Santander Bank N.A.*, No. 24-1781, 2025 WL 2823585, at *1 (1st Cir. June 18, 2025) (dismissing appeal because Lettieri had “not paid the appellate filing fee in full and ha[d] not shown why the appeal should be permitted to proceed without payment of the full filing fee despite his ‘three-strikes’ status”).

Lettieri asserts that, if the FMC Devens staff followed through with their admonition that Lettieri could be transferred to another prison, “it could be to a more dangerous prison when the plaintiff could barely speak at times because of a paralyzed vocal cord.” Compl. ¶ 7. Lettieri alleges that he “has been in fear of such and since then he [has] not done any informal resolutions since if transfer[red] the plaintiff wouldn’t be able to hell for help if [he] got stabbed.

Id. ¶ 8. These speculative allegations of possible injury if he is transferred to a different prison are insufficient to show that he is “under imminent danger of serious physical injury.” Therefore, the Court must deny his motion for leave to proceed in forma pauperis.

Accordingly, the motion for leave to proceed in forma pauperis is DENIED with prejudice. If Lettieri wishes to proceed with this action, he must, within twenty-eight (28) days, pay the \$405 filing fee. Failure to do so will result in dismissal of this action without prejudice. So Ordered. /s/ Brian E. Murphy
Brian E. Murphy Dated: January 16, 2025 Judge, United States District Court