

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Shumake v. Commonwealth of Virginia

No. 7:24-cv-00909 (W.D. Va. May 20, 2026) · No. 7:24-cv-00909 · Decided May 20, 2026

SUMMARY

The court dismissed Daryll Keith Shumake’s 42 U.S.C. § 1983 action without prejudice under the Prison Litigation Reform Act’s three-strikes rule, 28 U.S.C. § 1915(g). The court held that Shumake failed to allege specific facts showing that he was under imminent danger of serious physical injury when he filed the action. His claims concerned disability accommodations, an alleged delay in medical attention, and a prior fall while incarcerated.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Michael F. Urbanski
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	May 20, 2026
DOCKET	7:24-cv-00909
DISPOSITION	dismissed
PROCEDURAL POSTURE	A Virginia inmate proceeding pro se and in forma pauperis filed a civil-rights action under 42 U.S.C. § 1983. The district court screened the complaint and determined that the Prison Litigation Reform Act's three-strikes provision barred the action absent a showing of imminent danger of serious physical injury.
STANDARD OF REVIEW	The court applied the statutory screening and filing-fee restriction under 28 U.S.C. § 1915(g), assessing whether the complaint alleged specific facts showing imminent danger of serious physical injury at the time of filing.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district-court memorandum opinion
PARTIES	Daryll Keith Shumake v. Commonwealth of Virginia

TOPICS

prisoners rights

section 1983

civil rights

ada / disability

civil procedure

PRACTICE AREAS

Prisoner civil rights

Civil procedure

Disability discrimination

Filing-fee restrictions

QUESTIONS PRESENTED

1. Whether 28 U.S.C. § 1915(g) barred Shumake from proceeding without prepayment of the filing fee because he had at least three qualifying prior dismissals.
2. Whether Shumake alleged sufficient and specific facts to invoke § 1915(g)'s exception for a prisoner under imminent danger of serious physical injury at the time of filing.

HOLDINGS

1. A prisoner with three or more qualifying dismissals may proceed without prepayment of the filing fee only by alleging sufficient and specific facts establishing that he is under imminent danger of serious physical injury at the time of filing; vague, speculative, or conclusory allegations are insufficient.
2. Because Shumake did not satisfy the imminent-danger exception, the action was dismissed without prejudice under 28 U.S.C. § 1915(g).

KEY QUOTATIONS

“To satisfy the imminent-danger exception, an inmate must “allege[] sufficient and specific facts establishing that he or she is in imminent danger of serious physical injury at the time of filing.”” (Discussion)

“For the reasons stated, Shumake has not alleged facts sufficient to establish that he is in imminent danger of serious physical injury.” (Conclusion)

FACTUAL BACKGROUND

Shumake, a partially paralyzed inmate who uses a wheelchair, requested a right-side railing near his toilet and was moved approximately two weeks later to an ADA-compliant cell with a grab bar. Nearly eleven months afterward, he fell while getting out of his wheelchair near his cell door and alleged that a nurse delayed accepting his medical request. When he filed this action, he alleged disability discrimination, deliberate indifference, and delay in receiving medical attention, but did not identify an ongoing untreated injury or continuing pattern of misconduct presenting an imminent danger.

PROCEDURAL HISTORY

Shumake filed the action against the Commonwealth of Virginia seeking damages based on alleged disability-accommodation and medical-care violations. The court found that he had previously incurred at least three qualifying dismissals and that his allegations did not satisfy the imminent-danger exception in 28 U.S.C. § 1915(g). The court dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Shumake v. Commonwealth of Virginia, No. 7:17-cv-00214, 2017 U.S. Dist. LEXIS 101686 (W.D. Va. June 29, 2017)
- Shumake v. Smith, No. 7:12-cv-00174, 2012 U.S. Dist. LEXIS 54521 (W.D. Va. Apr. 18, 2012)
- Shumake v. Harvey, No. 7:05-cv-00802, 2006 U.S. Dist. LEXIS 97572 (W.D. Va. Jan. 9, 2006)
- Shumake v. Commonwealth of Virginia, No. 25-6525 (4th Cir. Nov. 5, 2025)
- Shumake v. Wallens Ridge State Prison, No. 08-7500 (4th Cir. Dec. 11, 2008)
- Lomax v. Ortiz-Marquez, 590 U.S. 595 (2020)
- Hall v. United States, 44 F.4th 218, 224 (4th Cir. 2022)
- Johnson v. Warner, 200 F. App'x 270, 272 (4th Cir. 2006)
- Martin v. Shelton, 319 F.3d 1048, 1050 (8th Cir. 2003)
- Holley v. Combs, 134 F.4th 142, 144-46 (4th Cir. 2025)
- Johnson v. Little, 852 F. App'x 369, 371 (10th Cir. 2021)

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