

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Washington v. Broomfield

No. 1:25-cv-00958-SAB (PC) (E.D. Cal. Aug. 11, 2025) · No. No. 1:25-cv-00958-SAB (PC) · Decided August 11, 2025

SUMMARY

The document is an order directing random assignment of a district judge and a magistrate judge’s Findings and Recommendation in a prisoner civil-rights action under 42 U.S.C. § 1983. It recommends denying in forma pauperis status under the three-strikes provision of 28 U.S.C. § 1915(g) because the plaintiff did not plausibly allege imminent danger of serious physical injury and directing him to pay the filing fee. The recommendation is subject to objections within fourteen days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 11, 2025
DOCKET	No. 1:25-cv-00958-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a pro se action under 42 U.S.C. § 1983 without paying the filing fee or submitting an application to proceed in forma pauperis. A magistrate judge issued findings and a recommendation that plaintiff be denied in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and be required to pay the filing fee.
STANDARD OF REVIEW	For the three-strikes inquiry, the court assessed whether plaintiff's complaint plausibly alleged that he faced imminent danger of serious physical injury when the complaint was filed. The imminent-danger exception is evaluated based on conditions existing at filing, and allegations must be plausible.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Roderick Washington v. Ronald Broomfield, et al.

TOPICS

prisoners rights

section 1983

civil procedure

PRACTICE AREAS

prisoner civil rights

in forma pauperis procedure

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff was subject to the three-strikes bar under 28 U.S.C. § 1915(g).
2. Whether plaintiff plausibly alleged that he was under imminent danger of serious physical injury at the time he filed the complaint, thereby qualifying for the statutory exception to the three-strikes bar.
3. Whether plaintiff should be denied leave to proceed in forma pauperis and required to pay the filing fee.

HOLDINGS

1. Plaintiff had accumulated three or more qualifying strikes and was therefore precluded from proceeding in forma pauperis unless the imminent-danger exception applied.
2. Plaintiff failed to plausibly allege that he faced imminent danger of serious physical injury when he filed the complaint.

KEY QUOTATIONS

“in no event shall a prisoner bring a civil action ... under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” (at 1)

“The issue now becomes whether Plaintiff has met the imminent danger exception, which requires Plaintiff to show that he is under (1) imminent danger of (2) serious physical injury and which turns on the conditions he faced at the time he filed his complaint” (at 2)

“Therefore, Plaintiff does not establish an exception to the three-strikes rule of § 1915(g), and he is precluded from proceeding in forma pauperis and must pay the filing fee for this action to proceed.” (at 3)

FACTUAL BACKGROUND

Plaintiff alleged excessive force, sexual abuse, food deprivation, and deprivation of hygiene materials occurring from August 2000 through May 2005. He also alleged that he was falsely accused of indecent exposure in October 2005 and required to register as a sex offender. The court found that these allegations concerned events occurring many years before the complaint and did not establish an ongoing or imminent danger of serious physical injury when the action was filed.

PROCEDURAL HISTORY

Plaintiff filed the complaint on August 4, 2025, according to the court's discussion of the filing date. He neither paid the \$405 filing fee nor submitted an in forma pauperis application. After reviewing plaintiff's litigation

history, the court concluded that he had accumulated at least three qualifying strikes and had not plausibly alleged imminent danger of serious physical injury at the time of filing. The magistrate judge directed random assignment of a district judge and recommended denial of in forma pauperis status, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Silva v. Di Vittorio, 658 F.3d 1090, 1099-1100 (9th Cir. 2011)
- Andrews v. Cervantes, 493 F.3d 1047, 1050 (9th Cir. 2007)
- Andrews v. Cervantes, 493 F.3d 1047, 1053-1056 (9th Cir. 2007)
- Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007)
- Andrews v. Cervantes, 493 F.3d 1047, 1051-1052 (9th Cir. 2007)
- Andrews v. Cervantes, 493 F.3d 1047, 1056-1057 (9th Cir. 2007)
- Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 634 n.1 (N.D. Cal. 1978)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-839 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)
- Washington v. Cambra, Case No. 3:95-cv-3356 TEH (N.D. Cal. Oct. 2, 1995)
- Washington v. Cambra, Case No. 3:95-cv-3641 TEH (N.D. Cal. Nov. 7, 1995)
- Washington v. Cambra, No. 3:95-cv-3763 TEH (N.D. Cal. Nov. 20, 1995)
- Washington v. Gomez, 1998 WL 296370 (N.D. Cal. June 1, 1998)
- Washington v. Gomez, 1996 WL 724895 (N.D. Cal. Dec. 4, 1996)
- Washington v. Gomez, 1996 WL 682026 (N.D. Cal. Nov. 15, 1996)
- Washington v. Gomez, 1996 WL 557609 (N.D. Cal. Sept. 19, 1996)
- Washington v. Cambra, 1996 WL 479069 (N.D. Cal. Aug. 13, 1996)
- Washington v. Cambra, 1996 WL 478965 (N.D. Cal. Aug. 12, 1996)
- Washington v. Early, Case No. 1:99-cv-6590 OWW LJO P (E.D. Cal.)

OPINION

(PC) Washington v. Broomfield

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 RODERICK WASHINGTON, No. 1:25-cv-00958-SAB (PC)

12 Plaintiff, ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN A DISTRICT JUDGE

13 v. TO THIS ACTION

14 RONALD BROOMFIELD, et al., FINDINGS AND RECOMMENDATION
RECOMMENDING PLAINTIFF PAY THE

15 Defendants. FILING FEE FOR THIS ACTION 16 17 Plaintiff is proceeding pro se in this
action filed pursuant to 42 U.S.C. § 1983. 18 On November 6, 2024, Plaintiff filed the complaint
commencing this action. (ECF No. 1.) 19 Plaintiff has not submitted an application to proceed in
forma pauperis pursuant to 28 U.S.C. § 20 1915 or paid the \$405.00 filing fee for this action.
However, a review of the Court's electronic 21 filing system reflects that Plaintiff has suffered
three of more strikes under 28 U.S.C. § 1915(g), 22 and is not allowed to proceed in forma
pauperis unless he was under imminent danger of serious 23 physical injury at the time of filing
the complaint. 24 I. 25

DISCUSSION

26 The Prison Litigation Reform Act of 1995 (PLRA) was enacted "to curb frivolous 27 prisoner
complaints and appeals." *Silva v. Di Vittorio*, 658 F.3d 1090, 1099-1100 (9th Cir. 28 1 2011).
Pursuant to the PLRA, the in forma pauperis statute was amended to include section 2 1915(g), a
non-merits related screening device which precludes prisoners with three or more 3 "strikes" from
proceeding in forma pauperis unless they are under imminent danger of serious 4 physical injury.
28 U.S.C. § 1915(g); *Andrews v. Cervantes*, 493 F.3d 1047, 1050 (9th Cir. 5 2007). The statute
provides that "[i]n no event shall a prisoner bring a civil action ... under this 6 section if the
prisoner has, on 3 or more prior occasions, while incarcerated or detained in any 7 facility, brought
an action or appeal in a court of the United States that was dismissed on the 8 grounds that it is
frivolous, malicious, or fails to state a claim upon which relief may be granted, 9 unless the
prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). 10 A review of
the actions filed by Plaintiff reveals that he is subject to 28 U.S.C. § 1915(g) 11 and is precluded
from proceeding in forma pauperis unless Plaintiff, was, at the time the 12 complaint was filed,
under imminent danger of serious physical injury. The Court takes judicial 13 notice¹ of the
following United States District Court cases: (1) *Washington v. Cambra*, Case No. 14 3:95-cv-
3356 TEH (N.D. Cal. Oct. 2, 1995) (order of dismissal); *Washington v. Cambra*, Case
15 No. 3:95-cv-3641 TEH (N.D. Cal. Nov. 7, 1995) (order of dismissal); and *Washington v.*
16 *Cambra*, No. 3:95-cv-3763 TEH (N.D. Cal. Nov. 20, 1995) (order of dismissal); see also 17
Washington v. Gomez, 1998 WL 296370 (N.D. Cal. June 1, 1998); *Washington v. Gomez*, 1996 18
WL 724895 (N.D. Cal. Dec. 4, 1996); *Washington v. Gomez*, 1996 WL 682026 (N.D. Cal. Nov. 19
15, 1996); *Washington v. Gomez*, 1996 WL 557609 (N.D. Cal. Sept. 19, 1996); *Washington v. 20*
Cambra, 1996 WL 479069 (N.D. Cal. Aug. 13, 1996); *Washington v. Cambra*, 1996 WL 478965
21 (N.D. Cal. Aug. 12, 1996)).² 22 The issue now becomes whether Plaintiff has met the imminent
danger exception, which 23 requires Plaintiff to show that he is under (1) imminent danger of (2)

serious physical injury and 24 which turns on the conditions he faced at the time he filed his complaint on August 4, 2025. 25 Andrews, 493 F.3d at 1053-1056. Conditions which posed imminent danger to Plaintiff at some 26 1 Judicial notice may be taken of court records. Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 634 n.1 (N.D. Cal. 1978). 27 2 Plaintiff was also declared a three-strike litigant in Washington v. Early, Case No. 1:99-cv-6590 OWW LJO P (E.D. 28 Cal.) (ECF No. 45) 1 earlier time are immaterial, as are any subsequent conditions. Id. at 1053. While the injury is 2 merely procedural rather than a merits-based review of the claims, the allegations of imminent 3 danger must still be plausible. Id. at 1055. 4 Here, the Court finds that Plaintiff's allegations fail to demonstrate imminent danger of 5 serious physical injury at the time of filing. In the instant complaint, Plaintiff alleges that he was 6 subjected to excessive force, sexual abuse, food deprivation, and stripped of hygiene materials 7 from August 2000 to May 2005. In October 2005, Plaintiff was falsely accused of indecent 8 exposure and was required to register as a sex offender for life. (ECF No. 1.) Plaintiff has 9 alleged no facts to establish that he "faced 'imminent danger of serious physical injury' at the 10 time of filing." See Andrews, 493 F.3d at 1051-52 (noting § 1915(g)'s exception for IFP 11 complaints which "make[] a plausible allegation that the prisoner faced 'imminent danger of 12 serious physical injury' at the time of filing."). Rather, Plaintiff allegations of excessive force 13 took place numerous years ago. Moreover, Plaintiff does not allege there is an ongoing danger 14 such that there is an imminent danger. Andrews, 493 F.3d at 1056-57 ("[A] prisoner who alleges 15 that prison officials continue with a practice that has injured him or others similarly situated in the 16 past will satisfy the 'ongoing danger' standard and meet the imminence prong of the three-strikes 17 exception."). Therefore, Plaintiff does not establish an exception to the three-strikes rule of § 18 1915(g), and he is precluded from proceeding in forma pauperis and must pay the filing fee for 19 this action to proceed. 20 II.

21 CONCLUSION AND RECOMMENDATION

22 Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a 23 District Judge to this action. 24 Further, it is HEREBY RECOMMENDED that, pursuant to 28 U.S.C. § 1915(g), Plaintiff 25 not be allowed to proceed in forma pauperis and instead be directed to pay the \$405.00 filing fee 26 in full if he wishes to proceed with this action. 27 This Findings and Recommendation will be submitted to the United States District Judge 28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) 1 | days after being served with this Findings and Recommendation, Plaintiff may file written 2 | objections with the Court, limited to 15 pages, including exhibits. The document should be 3 | captioned "Objections to Magistrate Judge's Findings and Recommendation." Plaintiff ☐☐ advised 4 | that failure to file objections within the specified time may result in the waiver of rights on 5 | appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 6 | 923 F.2d 1391, 1394 (9th Cir. 1991)). 7

8 IT IS SO ORDERED. FA. ee

9 | Dated: August 11, 2025

STANLEY A. BOONE

10 United States Magistrate Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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