

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.

OPINION

(PC) Washington v. Broomfield

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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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, 2005. 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