

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

Saunders Franklin v. R.J. Person

Franklin · No. 7:25-cv-00784 · Decided January 26, 2026

SUMMARY

The United States District Court for the Western District of Virginia dismissed Saunders Franklin's § 1983 action without prejudice after denying in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision. The court found that Franklin failed to pay the filing fee or otherwise respond within the ordered 30-day period.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Thomas T. Cullen
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	January 26, 2026
DOCKET	7:25-cv-00784
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a pro se prisoner civil-rights action under 42 U.S.C. § 1983 and sought leave to proceed in forma pauperis. After the court denied in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and ordered payment of the filing fee, Plaintiff failed to pay or otherwise respond.
PRECEDENTIAL VALUE	unpublished district court memorandum; precedential status unknown

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- prisoner civil rights
- federal civil procedure
- in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice when the plaintiff, after being denied in forma pauperis status under 28 U.S.C. § 1915(g), failed to pay the filing fee or otherwise comply with the court's order.

HOLDINGS

1. A prisoner plaintiff whose request to proceed in forma pauperis has been denied under 28 U.S.C. § 1915(g) may have the action dismissed without prejudice when the plaintiff fails to pay the full filing fee or otherwise respond within the time ordered by the court.

KEY QUOTATIONS

“The imminent-danger exception “is triggered only if the incarcerated person alleges sufficient and specific facts establishing that he or she is in imminent danger of serious physical injury at the time of filing.””

“The court will therefore dismiss this action for failure to comply with the court’s order and failure to pay the filing fee.”

FACTUAL BACKGROUND

Saunders Franklin, proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983 without paying the filing fee. He sought to proceed in forma pauperis, but the court determined that he had not shown imminent danger of serious physical injury as required to overcome the Prison Litigation Reform Act's three-strikes bar. After being ordered to pay the full filing fee and warned that noncompliance would result in dismissal, Franklin neither paid the fee nor responded within the allotted 30 days.

PROCEDURAL HISTORY

Plaintiff filed the action without prepaying the filing fee and submitted an in forma pauperis request. On December 8, 2025, the court found that Plaintiff had not established that he was in imminent danger under 28 U.S.C. § 1915(g), denied leave to proceed in forma pauperis, and ordered him to pay the full filing fee. The court warned that failure to pay or respond within 30 days would result in dismissal without prejudice. Plaintiff did not pay the fee or respond, so the court dismissed the action.

DISPOSITION

dismissed

CASES CITED

- Hall v. United States, 44 F.4th 218, 224 (4th Cir. 2022)

OPINION

CLERK'S OFFICE U.S. DIST. CC AT HARRISONBURG, VA FILED IN THE UNITED STATES DISTRICT COURT January 26, 2026 POR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION LAURA A. AUSTIN, CLEI BY: s/J.Vasquez SAUNDERS FRANKLIN,)

DEPUTY CLERK) Plaintiff,) Case No. 7:25-cv-00784 } v.) MEMORANDUM OPINION } R.J.
PERSON,) By: | Hon. Thomas T. Cullen) United States District Judge Defendant.) Plaintiff
Saunders Franklin, proceeding pro se, filed this civil-rights action under 28 U.S.C. § 1983.

(See generally Compl. [ECP No. 1].) Plaintiff did not pay the filing fee before filing his complaint and is instead seeking leave to proceed with this action im forma pauperis. (See *zd.*; Prisoner Trust Account Report [ECF No. 2].)

Under the “three-strikes” provision of the Prison Litigation Reform Act, a prisoner who has already had three cases dismissed as frivolous or malicious or for failure to state a claim cannot file a civil action without prepaying the filing fee “unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

The imminent-danger exception “is triggered only if the incarcerated person alleges sufficient and specific facts establishing that he or she is in imminent danger of serious physical injury at the time of filing.” *Hall v. United States*, 44 F.4th 218, 224 (4th Cir. 2022) (“The plain reading of the statute requires that the ‘imminent danger’ exist contemporaneously when the action is filed.”).

Upon finding that Plaintiff had not shown imminent danger under § 1915(g), the court denied Plaintiff leave to proceed in forma pauperis and ordered him to pay the full filing fee. (See Order, Dec. 8, 2025 [ECF No. 4]) The court cautioned Plaintiff that failure to pay the fee in full or otherwise respond to the court’s order within 30 days would result in the immediate dismissal of this action without prejudice.

(*Id.*) More than 30 days have since passed, and Plaintiff has not paid the filing fee has ordered. The court will therefore dismiss this action for failure to comply with the court’s order and failure to pay the filing fee.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying order to Plaintiff. ENTERED this 26th day of January, 2026. /s/ Thomas T. Cullen HON. THOMAS T. CULLEN UNITED STATES DISTRICT JUDGE