

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

John Paul Schowachert v. Smiley

Schowachert v. Smiley · No. 1:25-cv-01293-BAM (PC) · Decided October 6, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends denying John Paul Schowachert’s motion to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). The court finds that the complaint does not establish that Plaintiff was in imminent danger of serious physical injury when he filed the action and orders the Clerk to randomly assign a district judge. Plaintiff is directed to pay the \$405 filing fee, subject to objections within fourteen days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 6, 2025
DOCKET	1:25-cv-01293-BAM (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding under 42 U.S.C. § 1983, moved to proceed in forma pauperis. The magistrate judge issued findings and recommendations recommending denial of in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and directing the Clerk to randomly assign a district judge.
STANDARD OF REVIEW	The magistrate judge reviewed the complaint and in forma pauperis application under 28 U.S.C. § 1915(g); the findings and recommendations were subject to de novo review of timely objections under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations of a federal magistrate judge; no reporter citation appears.

TOPICS

- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

Prisoner civil rights

In forma pauperis proceedings

Prison Litigation Reform Act

QUESTIONS PRESENTED

1. Whether Plaintiff was barred from proceeding in forma pauperis under 28 U.S.C. § 1915(g) because he had at least three prior qualifying dismissals.
2. Whether Plaintiff satisfied the imminent-danger exception to the three-strikes bar by alleging an imminent danger of serious physical injury fairly traceable to the alleged unlawful conduct and redressable by the court.

HOLDINGS

1. Plaintiff did not satisfy the imminent-danger exception because he did not allege that he faced an imminent danger of serious physical injury at the time he filed the action, and the alleged past incident was not shown to be connected to any ongoing danger at his current institution or redressable in this action.
2. Plaintiff was subject to the three-strikes bar under 28 U.S.C. § 1915(g), based on at least three prior qualifying dismissals.

KEY QUOTATIONS

“[I]n order to qualify for the § 1915(g) imminent danger exception, a three-strikes prisoner must allege imminent danger of serious physical injury that is both fairly traceable to unlawful conduct alleged in his complaint and redressable by the court.” (at 1)

“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)

FACTUAL BACKGROUND

Plaintiff alleged that Tuolumne County Jail Custodial Officer Smiley struck him on the head, crushed his skull, and caused him to fall into a six-month coma, resulting in permanent physical and mental disability. Plaintiff appeared to allege that the incident occurred while he was housed at Tuolumne County Jail. When he filed this action, however, he was housed at R.J. Donovan Correctional Facility and did not allege any ongoing danger connected to Smiley or the prior incident.

PROCEDURAL HISTORY

Plaintiff filed this civil rights action and an incomplete motion to proceed in forma pauperis on October 1, 2025. The magistrate judge reviewed the complaint, took judicial notice of Plaintiff's prior dismissals, concluded that Plaintiff was subject to 28 U.S.C. § 1915(g), and found that the complaint did not establish the imminent-danger exception. The matter was referred to a district judge for review after a fourteen-day objection period.

DISPOSITION

other

CASES CITED

- Andrews v. Cervantes, 493 F.3d 1047, 1053-55 (9th Cir. 2007)
- Ray v. Lara, 31 F.4th 692, 701 (9th Cir. 2022)
- Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)
- Schowachert v. Polley, Case No. 1:22-cv-01249-JLT-BAM (E.D. Cal.)
- Schowachert v. Sorano, Case No. 1:21-cv-00975-JLT-HBK (E.D. Cal.)
- Schowachert v. Polley, Case No. 1:23-cv-01579-JLT-EPG (E.D. Cal.)
- Schowachert v. Polley, Case No. 1:23-cv-01645-KES-SAB (E.D. Cal.)
- Schowachert v. Polley, Case No. 1:24-cv-00713-KES-CDB (E.D. Cal.)