

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, SOUTH BEND DIVISION

Tervarus Gary v. Centurion, et al.

Gary v. Centurion · No. 3:26-CV-26-CCB-SJF · Decided January 14, 2026

SUMMARY

The United States District Court for the Northern District of Indiana denies Tervarus Gary's motion to proceed in forma pauperis under the Prison Litigation Reform Act's three-strikes provision. The court finds that Gary did not allege an imminent danger of serious physical injury and dismisses the case without prejudice, while assessing the filing fee. The court also restricts Gary from filing papers in other civil actions until outstanding federal filing fees and sanctions are paid, subject to specified exceptions.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, South Bend Division
WRITING FOR THE COURT	Cristal C. Brisco
JURISDICTION	United States District Court for the Northern District of Indiana, South Bend Division
DECIDED	January 14, 2026
DOCKET	3:26-CV-26-CCB-SJF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a prisoner civil-rights complaint and moved to proceed in forma pauperis. The district court denied the motion, dismissed the action without prejudice, assessed the filing fee, and imposed a filing restriction.
STANDARD OF REVIEW	The court applied the statutory requirements of 28 U.S.C. § 1915(g) to determine whether a prisoner with three strikes could proceed in forma pauperis.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Centurion, et al.

TOPICS

prisoners rights

civil rights

civil procedure

sanctions

PRACTICE AREAS

prisoner civil rights

in forma pauperis

filing restrictions

civil procedure

QUESTIONS PRESENTED

1. Whether a prisoner with three qualifying dismissals under 28 U.S.C. § 1915(g) may proceed in forma pauperis when the complaint does not allege imminent danger of serious physical injury.
2. Whether the court could dismiss the action without prejudice, assess the filing fee, and restrict future filings based on Gary's attempt to proceed in forma pauperis despite his three-strikes status.

HOLDINGS

1. A prisoner with three qualifying dismissals may not proceed in forma pauperis unless the complaint shows that the prisoner was under imminent danger of serious physical injury when the action was filed. Because Gary alleged no such danger, his in forma pauperis motion was denied.
2. The action was dismissed without prejudice, the filing fee was assessed, and Gary was restricted from filing papers in other civil actions in the circuit until all outstanding federal filing fees and sanctions were paid, subject to stated exceptions.

KEY QUOTATIONS

“To meet the imminent danger standard, the threat complained of must be real and proximate.”

“Only “genuine emergencies” qualify as a basis for circumventing § 1915(g).”

“An effort to bamboozle the court by seeking permission to proceed in forma pauperis after a federal judge has held that § 1915(g) applies to a particular litigant will lead to immediate termination of the suit.”

FACTUAL BACKGROUND

Gary, a prisoner proceeding without a lawyer, alleged that he had been denied medical treatment between August 5, 2025, and November 1, 2025, and sought monetary damages. The complaint did not allege that he was then in imminent danger of serious physical injury; it referred only to ongoing injuries from past events. Gary had three prior qualifying dismissals and had previously been informed that he was barred from proceeding in forma pauperis absent imminent danger.

PROCEDURAL HISTORY

Tervarus Gary filed a complaint alleging denial of medical treatment and sought monetary damages. He also moved to proceed in forma pauperis. The court determined that Gary had three qualifying prior dismissals under 28 U.S.C. § 1915(g) and that the complaint did not allege imminent danger of serious physical injury. The court therefore denied in forma pauperis status, dismissed the case without prejudice, assessed the filing fee, and restricted future filings until outstanding federal filing fees and sanctions were paid.

DISPOSITION

dismissed

CASES CITED

- Gary v. Elkhart County Work Release, 3:24-cv-349 (N.D. Ind. filed Apr. 25, 2024)
- Gary v. Elkhart County Sheriffs Department, 3:24-cv-340 (N.D. Ind. filed Apr. 22, 2024)
- Gary v. IDOC, 3:25-cv-391 (N.D. Ind. filed May 2, 2025)
- Abdul-Wadood v. Nathan, 91 F.3d 1023, 1025 (7th Cir. 1996)
- Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003)
- Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002)
- Newlin v. Helman, 123 F.3d 429, 436-37 (7th Cir. 1997)
- Sloan v. Lesza, 181 F.3d 857, 859 (7th Cir. 1999)
- Support Systems International, Inc. v. Mack, 45 F.3d 185, 186 (7th Cir. 1995)

OPINION

Centurion

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF INDIANA

SOUTH BEND DIVISION

TERVARUS GARY,

Plaintiff,

v. CAUSE NO. 3:26-CV-26-CCB-SJF

CENTURION, et al., Defendants.

OPINION AND ORDER

Tervarus Gary, a prisoner without a lawyer, filed a complaint. ECF 1. He seeks leave to proceed in forma pauperis. ECF 2. A prisoner may not bring a civil action in forma pauperis if he has, “on three 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 [was] 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.” 28 U.S.C. § 1915(g). This is commonly known as the “three strikes” provision. Gary has three strikes.¹ An inmate who has struck out “can use the partial prepayment option in §1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” 1 (1) Gary v. Elkhart County Work Release, 3:24-cv-349 (N.D. Ind. filed April 25, 2024), dismissed under 28 U.S.C. § 1915A for failure to state a claim on October 9, 2024. (2) Gary v. Elkhart County Sheriffs Department, 3:24-cv-340 (N.D. Ind. filed April 22, 2024), dismissed as frivolous under 28 U.S.C. § 1915A on May 5, 2025.

(3) Gary v. IDOC, 3:25-cv-391 (N.D. Ind. filed May 2, 2025), dismissed under 28 U.S.C. § 1915A for

failure to state a claim on October 28, 2025. Abdul-Wadood v. Nathan, 91 F.3d 1023, 1025 (7th Cir. 1996) (quoting 28 U.S.C. § 1915(g)). To meet the imminent danger standard, the threat complained of must be real and proximate. Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify as a basis for circumventing § 1915(g). Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002). In the complaint, Gary makes no mention of being in imminent danger of serious physical injury. He discusses only ongoing injuries caused by past events. He seeks monetary damages based on alleged denials of medical treatment from August 5, 2025, to November 1, 2025. Neither his claims nor the relief he seeks indicate that he was in imminent danger of serious physical injury when he filed this case. Gary may not proceed in forma pauperis. Gary knows he is struck out. He was told three times² in the month before he signed this complaint on January 5, 2026. ECF 1 at 4. Yet, he seeks to proceed in forma pauperis without mentioning that he has three strikes or indicating he is in imminent danger. The Seventh Circuit requires litigants be restricted when they attempt to “bamboozle” the court by seeking to proceed in forma pauperis after they have been informed that they are barred from doing so. Litigants to whom § 1915(g) applies take heed! An effort to bamboozle the court by seeking permission to proceed in forma pauperis after a federal judge has held that § 1915(g) applies to a particular litigant will lead to immediate termination of the suit. Moreover, the fee remains 2 (1) Gary v. Sonnenberg, 3:25-cv-967 (N.D. Ind. filed November 20, 2025), ECF 3 on November 25, 2025.

(2) Gary v. Kennadey, 3:25-cv-984 (N.D. Ind. filed November 25, 2025), ECF 3 on December 2, 2025.

(3) Gary v. Thomas, 3:25-cv-989 (N.D. Ind. filed November 28, 2025), ECF 3 on December 2, 2025.

due, and we held in Newlin v. Helman, 123 F.3d 429, 436-37 (7th Cir. 1997), that unpaid docket fees incurred by litigants subject to § 1915(g) lead straight to an order forbidding further litigation. Sloan’s appeal is dismissed for failure to pay the appellate filing and docket fees. Until Sloan has paid in full all outstanding fees and sanctions in all civil actions he has filed, the clerks of all courts in this circuit will return unfiled all papers he tenders. This order does not apply to criminal cases or petitions challenging the terms of his confinement, and may be reexamined in two years under the approach of Newlin and Support Systems International, Inc. v. Mack, 45 F.3d 185 (7th Cir. 1995). Sloan v. Lesza, 181 F.3d 857, 859 (7th Cir. 1999). Gary attempted to “bamboozle” the court by asking to proceed in forma pauperis in this case when he was not in imminent danger of serious physical injury. Thus, this case will be dismissed, the filing fee assessed, and Gary restricted until he has paid in full all outstanding filing fees and sanctions imposed by any federal court. The restriction imposed by this order does not restrict him from filing a notice of appeal nor “impede him from making any filings necessary to protect him from imprisonment or other confinement, but [it does] not let him file any paper in any other suit . . . until he pays the money

he owes.” Support Sys. Int’l v. Mack, 45 F.3d 185, 186 (7th Cir. 1995). Neither does it restrict him from litigating his five currently open cases. See Gary v. IDOC, 1:26-cv-8-JTM-AZ (N.D. Ind. filed January 6, 2026); Gary v. Brown, 3:25-cv-296-JD- AZ (N.D. Ind. filed April 7, 2025); Gary v. Smiley, 3:25-cv-321-TLS-JEM (N.D. Ind. filed April 14, 2025); Gary v. Sonnenberg, 3:25-cv-967-CCB-SJF (N.D. Ind. filed November 20, 2025); and Gary v. Mango, 3:26-cv-027-CCB-SJF (N.D. Ind. filed January 8, 2026). For these reasons, the court:

- (1) DENIES the in forma pauperis motion (ECF 2);
- (2) DISMISSES this case WITHOUT PREJUDICE;
- (3) ORDERS the plaintiff, Tervarus Gary, IDOC # 225378, to pay (and the facility having custody of him to automatically remit) to the clerk of this court 20 percent of the money he receives for each calendar month during which he receives \$10.00 or more, until the \$405.00 filing fee is paid in full;
- (4) DIRECTS the clerk of court to create a ledger for receipt of these funds;
- (5) DIRECTS the clerk of court to return, unfiled, any papers filed by or on behalf of Tervarus Gary, except for a. a notice of appeal and documents related to that appeal, b. filings in a criminal case; c. filings in a habeas corpus case, and d. filings in: i. 1:26-cv-8-JTM-AZ, ii. 3:25-cv-296-JD-AZ, iii. 3:25-cv-321-TLS-JEM, iv. 3:25-cv-967-CCB-SJF, or v. 3:26-cv-027-CCB-SJF until he has paid in full all outstanding fees and sanctions in all civil actions in any federal court;
- (6) DIRECTS the clerk to note on the docket of this case any attempted filings in violation of this order; and
- (7) DIRECTS the clerk to send a copy of this order to each facility where the plaintiff is housed until the filing fee has been paid in full. SO ORDERED on January 14, 2026.
/s/Cristal C. Brisco

CRISTAL C. BRISCO, JUDGE

UNITED STATES DISTRICT COURT