

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Israel Maldonado-Ramirez v. Francisco et al.

No. 1:23-cv-00162-HBK (PC), United States District Court for the Eastern District of California (March 2, 2023)

SUMMARY

The United States District Court for the Eastern District of California recommends denying Israel Maldonado-Ramirez’s motion to proceed in forma pauperis under the Prison Litigation Reform Act’s three-strikes provision, 28 U.S.C. § 1915(g). The court identifies three qualifying prior strikes and concludes that the complaint does not plausibly allege imminent danger of serious physical injury. The document also orders random assignment of the case to a district judge and provides a fourteen-day objection period.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 2, 2023
DOCKET	1:23-cv-00162-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner plaintiff proceeding pro se filed a 42 U.S.C. § 1983 complaint and moved to proceed in forma pauperis. The magistrate judge issued findings and recommendations recommending denial of the motion under the Prison Litigation Reform Act's three-strikes provision, and ordered assignment of a district judge.
STANDARD OF REVIEW	The complaint's facial allegations were liberally construed to determine whether Plaintiff plausibly alleged imminent danger of serious physical injury at the time of filing.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Israel Maldonado-Ramirez v. Bar Associate Francisco, Brah Cona, Madera County Police Department

TOPICS

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff had accumulated at least three qualifying strikes under 28 U.S.C. § 1915(g).
2. Whether the complaint plausibly alleged that Plaintiff faced imminent danger of serious physical injury at the time of filing, including whether the required nexus existed between the alleged danger and the claims.
3. Whether Plaintiff's motion to proceed in forma pauperis should therefore be denied under § 1915(g).

HOLDINGS

1. Plaintiff had at least three qualifying strikes because the identified prior actions were dismissed before the present action on grounds qualifying under § 1915(g).
2. The complaint did not plausibly allege that Plaintiff faced imminent danger of serious physical injury when he filed the action, and it did not satisfy the required nexus between the alleged imminent danger and the claims asserted.
3. The magistrate judge recommended that Plaintiff's motion to proceed in forma pauperis be denied under § 1915(g) because Plaintiff had three qualifying strikes and did not meet the imminent-danger exception.

KEY QUOTATIONS

“For the reasons discussed below, the undersigned recommends the district court deny Plaintiff’s IFP motion under 28 U.S.C. § 1915(g) because Plaintiff has had at least three actions or appeals that constitute strikes, and the Complaint does not establish that Plaintiff meets the imminent danger exception.” (at 1)

“In order to avail oneself of this narrow exception, “the PLRA requires a nexus between the alleged imminent danger and the violations of law alleged in the prisoner’s complaint.”” (at 3)

“Plaintiff’s motion to proceed in forma pauperis (Doc. No. 2) be DENIED under § 1915(g) due to his three-strike status and his failure to meet the imminent danger exception.” (at 6)

FACTUAL BACKGROUND

Israel Maldonado-Ramirez, incarcerated at Madera County Jail, filed a pro se prisoner civil-rights complaint against Francisco, Cona, and the Madera County Police Department. Liberally construed, the complaint alleged wrongful taking of property, retaliation, due-process violations, denial of medical leave, and an outside legal organization's refusal to pursue a case. The court found that Plaintiff had three prior qualifying strikes and that the complaint did not allege facts showing imminent danger of serious physical injury when filed.

PROCEDURAL HISTORY

Plaintiff initiated the action on February 2, 2023, and sought leave to proceed in forma pauperis. The magistrate judge determined that Plaintiff had at least three qualifying strikes under 28 U.S.C. § 1915(g) and that the complaint did not plausibly allege imminent danger of serious physical injury. The matter was ordered assigned to a district judge, and denial of the IFP motion was recommended subject to a fourteen-day objection period.

DISPOSITION

other

CASES CITED

- Lomax v. Ortiz-Marquez, 140 S. Ct. 1721, 1723 (2020)
- Andrews v. Cervantes, 493 F.3d 1047, 1051-53 (9th Cir. 2007)
- Knapp v. Hogan, 738 F.3d 1106, 1109 (9th Cir. 2013)
- Washington v. Los Angeles Cty. Sheriff's Dep't, 833 F.3d 1048 (9th Cir. 2016)
- Coleman v. Tollefson, 135 S. Ct. 1759, 1761 (2015)
- Louis Butler O'Neal v. Price, 531 F.3d 1146, 1153 (9th Cir. 2008)
- Williams v. Paramo, 775 F.3d 1182, 1190 (9th Cir. 2015)
- Ray v. Lara, 31 F.4th 692, 700-701 (9th Cir. Apr. 11, 2022)
- White v. Colorado, 157 F.3d 1226, 1231-32 (10th Cir. 1998)
- Lewis v. Sullivan, 279 F.3d 526, 531 (7th Cir. 2002)
- Cervantes, 493 F.3d at 1053
- Harris v. Mangum, 863 F.3d 1133, 1143 (9th Cir. 2017)
- Ray v. Lara, 31 F.4th 692, 700 (9th Cir. 2022)
- Blackman v. Mjening, No. 1:16-cv-01421-LJO-GSA-PC, 2016 WL 5815905, at *1 (E.D. Cal. Oct. 4, 2016)
- Hardney v. Hampton, No. 2:20-cv-01587-WBS-DMC-P, 2021 WL 4896034, at *4 (E.D. Cal. Oct. 20, 2021)
- Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002)
- Campbell v. Vance, No. CIV S-05-1163 RRB, 2005 WL 3288400, at *1 (E.D. Cal. Nov. 30, 2005)
- Gorby v. Internal Revenue Service, Fresno, Case No. 1:21-cv-320-NONE-HBK, 2021 WL 1339146 (E.D. Cal. Apr. 14, 2021)
- Trujillo Cruz v. White, No. 2:19-cv-1304-KJM-DMC, 2019 WL 4917192 (E.D. Cal. Oct. 4, 2019)
- Trujillo-Cruz v. White, 2020 WL 1234201 (E.D. Cal. Mar. 13, 2021)
- Hoffman v. Pulido, 928 F.3d 1147, 1148-49 (9th Cir. 2019)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)