

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

Saunders Franklin v. Lt. Day, et al.

Franklin · No. 7:25-cv-00783 · Decided January 26, 2026

SUMMARY

The United States District Court for the Western District of Virginia dismisses Saunders Franklin’s 42 U.S.C. § 1983 action without prejudice. The court concludes that Franklin failed to qualify for the imminent-danger exception to the Prison Litigation Reform Act’s three-strikes rule, failed to pay the filing fee after being ordered to do so, and failed to comply with the court’s order.

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-00783
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a prisoner civil-rights action under 42 U.S.C. § 1983 and sought leave to proceed in forma pauperis without prepaying the filing fee.
STANDARD OF REVIEW	The court applied the requirements of 28 U.S.C. § 1915(g) and enforced its prior filing-fee order; no appellate standard of review was stated.
PRECEDENTIAL VALUE	unknown
PARTIES	Saunders Franklin v. Lt. Day, et al.

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice when Plaintiff failed to pay the filing fee after being denied in forma pauperis status and ordered to pay.
2. Whether Plaintiff established the imminent-danger exception to the Prison Litigation Reform Act's three-strikes filing-fee requirement.

HOLDINGS

1. A prisoner subject to the three-strikes provision may proceed without prepaying the filing fee only upon alleging sufficient and specific facts establishing imminent danger of serious physical injury at the time of filing; Plaintiff failed to make that showing.
2. When a plaintiff fails to pay the required filing fee or otherwise respond within the deadline specified in the court's order, the court may dismiss the action without prejudice for failure to comply with the order and failure to pay the filing fee.

KEY QUOTATIONS

“unless the prisoner is under imminent danger of serious physical injury.”

“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, a prisoner proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983 without paying the filing fee and sought leave to proceed in forma pauperis. The court determined that he had not alleged sufficient facts showing imminent danger of serious physical injury when he filed the action. After being ordered to pay the full fee and warned of dismissal, Franklin neither paid the fee nor responded within 30 days.

PROCEDURAL HISTORY

The court denied Plaintiff leave to proceed in forma pauperis after finding that he had not shown that the imminent-danger exception to the Prison Litigation Reform Act's three-strikes provision applied. The court ordered Plaintiff to pay the full filing fee and warned that failure to pay or otherwise 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

CLERKS OFFICE US DISTRICT COUR IN THE UNITED STATES DISTRICT COURT POR THE WESTERN DISTRICT OF VIRGINIA January 26, 2026 ROANOKE DIVISION LAURA A. AUSTIN, CLERK py: /s/ Megan Poff SAUNDERS FRANKLIN,) DEPUTY CLERK) Plaintiff,) Case No. 7:25-cv-00783) v.) MEMORANDUM OPINION) LT. DAY, ef al,) By: | Hon. Thomas T. Cullen) United States District Judge Defendants.) 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 ia 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 ts 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