

**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.

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