

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Elijah Lee Miller v. M. Bobbala, et al.

No. 2:25-cv-0467-SCR · No. No. 2:25-cv-0467-SCR · Decided September 17, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends denying Elijah Lee Miller’s motion to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). The court finds that Miller had previously accrued at least three qualifying strikes and that the complaint’s allegations concerning liquid nutritional supplements did not establish imminent danger of serious physical injury, recommending payment of the full filing fee within 30 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 17, 2025
DOCKET	No. 2:25-cv-0467-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se under 42 U.S.C. § 1983, moved to proceed in forma pauperis. The magistrate judge issued an order randomly assigning the matter to a district judge and findings and recommendations that the motion be denied under the Prison Litigation Reform Act's three-strikes provision and that plaintiff be required to pay the full filing fee or face dismissal.
STANDARD OF REVIEW	The court independently reviewed plaintiff's prior dismissals to determine whether they constituted strikes under 28 U.S.C. § 1915(g), and evaluated whether the complaint alleged imminent danger at the time of filing.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge order and findings and recommendations

TOPICS

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

PRACTICE AREAS

prisoner civil rights

in forma pauperis proceedings

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff had accrued three or more prior strikes under 28 U.S.C. § 1915(g).
2. Whether the complaint's allegations concerning the number of liquid nutritional supplements provided at meals demonstrated that plaintiff was under imminent danger of serious physical injury when the complaint was filed.
3. Whether plaintiff should be denied in forma pauperis status and required to pay the full filing fee.

HOLDINGS

1. Plaintiff had accrued at least three qualifying strikes, so § 1915(g) barred her from proceeding in forma pauperis absent the imminent-danger exception.
2. Plaintiff's allegations about receiving two liquid nutritional supplements per day rather than two per meal were insufficient to establish imminent danger of serious physical injury.

KEY QUOTATIONS

“In no event shall a prisoner bring a civil action . . . [in forma pauperis] 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)

“Section § 1915(g)’s “imminent danger” exception cannot be triggered solely by complaints of past harm or generalized fears of potential harm.” (at 1)

FACTUAL BACKGROUND

Plaintiff is incarcerated and transgender and alleges that prison officials provide her with two liquid nutritional supplements per day rather than two supplements at each meal. She argued that these allegations demonstrated imminent danger of serious physical injury. The court concluded that the allegations did not establish the type of imminent harm required to invoke the statutory exception to the three-strikes bar.

PROCEDURAL HISTORY

Plaintiff filed this prisoner civil-rights action and sought leave to proceed in forma pauperis. A prior judge had determined in an earlier action that plaintiff had accrued at least three qualifying strikes, and the magistrate judge independently reviewed and agreed that the prior dismissals counted. The magistrate judge further concluded that the complaint did not establish imminent danger of serious physical injury at the time of filing, recommended denial of in forma pauperis status, and required payment of the filing fee within 30 days subject to dismissal.

DISPOSITION

other

CASES CITED

- Miller v. Lynch, No. 2:23-cv-2145-TLN-JDP, ECF Nos. 9, 10 (E.D. Cal. Feb. 6 and Mar. 12, 2024)
- Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)
- Harris v. County of Orange, 682 F.3d 1126, 1131-32 (9th Cir. 2012)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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