

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Sivak v. Schroeder

Sivak · No. 25-cv-00963-AMO (PR); 25-cv-01197-AMO (PR); 25-cv-01460-AMO (PR); 25-cv-01490-AMO (PR); 25-cv-04487-AMO (PR); 25-cv-04531-AMO (PR) · Decided June 13, 2025

SUMMARY

The United States District Court for the Northern District of California dismissed with prejudice multiple actions filed by pro se prisoner Lacey Sivak. The court denied pending applications to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g), finding no imminent danger of serious physical injury. The court also noted that claims involving judges were barred by mandamus limitations and judicial immunity, and directed the Clerk to close the cases.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 13, 2025
DOCKET	25-cv-00963-AMO (PR); 25-cv-01197-AMO (PR); 25-cv-01460-AMO (PR); 25-cv-01490-AMO (PR); 25-cv-04487-AMO (PR); 25-cv-04531-AMO (PR)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court consolidated and resolved multiple actions filed by a pro se Idaho state prisoner, including mandamus petitions, criminal complaints against judicial officers, and another action invoking 28 U.S.C. § 1331. The court denied pending applications to proceed in forma pauperis and dismissed the actions with prejudice.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown and no reporter citation appears in the source.
PARTIES	Lacey Sivak v. Mary M. Schroeder, et al.

TOPICS

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

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

judicial immunity

mandamus

QUESTIONS PRESENTED

1. Whether Sivak could proceed in forma pauperis despite his three-striker status under 28 U.S.C. § 1915(g).
2. Whether the allegations established that Sivak was under imminent danger of serious physical injury when he filed the actions.
3. Whether the court could issue mandamus relief directing state courts, state judicial officers, federal judges, or other officials to perform specified duties.
4. Whether judicial officers were absolutely immune from Sivak's civil damages claims based on acts taken in their judicial capacities.
5. Whether the repetitive and frivolous nature of the filings required or justified recusal of the assigned judge.

HOLDINGS

1. Because Sivak had at least three prior cases dismissed as strikes, he could not proceed in forma pauperis unless he showed that he was under imminent danger of serious physical injury when he filed each action.
2. Sivak's allegations did not show that he was under imminent danger of serious physical injury when he filed the actions, so the three-strikes exception did not apply.
3. Federal courts lack power to issue a writ of mandamus directing state courts, state judicial officers, or other state officials in the performance of their duties.
4. A party who disagrees with a federal judge's disposition of an in forma pauperis application must seek review in the Ninth Circuit as appropriate and may not obtain review by another judge in the same district.
5. Judicial officers are absolutely immune from civil damages claims arising from acts taken in their judicial capacities.
6. Recusal was not warranted merely because Sivak had filed repetitive and frivolous cases against the assigned judge; absent legitimate grounds for recusal, a judge has a duty to sit.

KEY QUOTATIONS

“Because Sivak has had at least three cases dismissed that count as “strikes,” pursuant to section 1915(g), he may not proceed IFP in any of the above-captioned actions unless he demonstrates that he is “under imminent danger of serious physical injury” at the time he filed the petitions in each action.” (at 1)

“To the extent Sivak disagrees with a federal judge’s disposition of his applications to proceed IFP, he may appeal to the Ninth Circuit as circumstances warrant. He may not seek review by another judge in the District.” (at 2)

“In addition, these judges are absolutely immune from civil claims for damages alleged in connection with actions taken in their judicial capacity.” (at 2)

FACTUAL BACKGROUND

Lacey Sivak, an Idaho state prisoner and frequent pro se litigant, filed six actions challenging rulings or conduct involving judges in the Idaho courts, the District of Idaho, the Northern District of California, and the Ninth Circuit, as well as conduct by a prison law-library staff member. In one action, he alleged a matter involving the movement of a prisoner between housing units; in others, he filed petitions for writs of mandamus or so-called criminal complaints against judicial officers. Sivak had previously accumulated at least three qualifying dismissals and had been designated a three-striker in numerous cases.

PROCEDURAL HISTORY

Sivak filed the above-captioned actions in the Northern District of California. The court noted that he had previously been designated a three-striker under 28 U.S.C. § 1915(g) and had been barred from proceeding in forma pauperis absent a showing of imminent danger of serious physical injury. The court concluded that the allegations did not establish imminent danger, that some claims were independently barred by mandamus limitations and judicial immunity, and dismissed all actions with prejudice.

DISPOSITION

dismissed

CASES CITED

- *Demos v. U.S. District Court*, 925 F.2d 1160, 1161-62 (9th Cir. 1991)
- *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980)
- *Mullis*, 828
- *Moore v. Brewster*, 96 F.3d 1240, 1243 (9th Cir. 1996)
- *United States v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008)
- *Sivak v. Winmill*, No. 1:02-cv-00353 (D. Idaho Oct. 17, 2002)
- *Sivak v. Nye*, No. 21-35760 (9th Cir. Nov. 8, 2021)
- *Sivak v. Duggan*, No. 21-35356 (9th Cir. Jan. 21, 2022)

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