

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

Patrick Nicholas v. Pennsylvania D.O.C., et al.

Nicholas · No. 1:25-CV-01601 · Decided December 29, 2025

SUMMARY

The United States District Court for the Middle District of Pennsylvania denied Patrick Nicholas’s application to proceed in forma pauperis under the Prison Litigation Reform Act’s three-strikes provision, 28 U.S.C. § 1915(g). The court found that Nicholas had accumulated three qualifying strikes and had not shown that he was in imminent danger of serious physical injury. He was granted thirty days to pay the filing fee, subject to dismissal if he failed to do so.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Jennifer P. Wilson
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	December 29, 2025
DOCKET	1:25-CV-01601
DISPOSITION	other
PROCEDURAL POSTURE	The court considered Plaintiff’s application to proceed in forma pauperis in a prisoner civil-rights action after the action was transferred from the Eastern District of Pennsylvania.
STANDARD OF REVIEW	The court evaluated the application under 28 U.S.C. § 1915(g), including whether Plaintiff had accumulated three qualifying strikes and whether he satisfied the imminent-danger exception at the time the complaint was filed.
PRECEDENTIAL VALUE	Unknown
PARTIES	Patrick Nicholas v. Pennsylvania D.O.C., et al.

TOPICS

- prisoners rights
- civil procedure
- civil rights
- subject matter jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff had accumulated three qualifying strikes under 28 U.S.C. § 1915(g).
2. Whether Plaintiff qualified for the imminent-danger exception to the Prison Litigation Reform Act's three-strikes rule.
3. Whether Plaintiff's in forma pauperis application should be denied and whether he should be required to pay the filing fee before proceeding.

HOLDINGS

1. Plaintiff had accumulated three qualifying strikes because three prior civil actions had been dismissed with prejudice for failure to state a claim.
2. Plaintiff did not establish that he was in imminent danger of serious physical injury when he filed the complaint.
3. Plaintiff's application to proceed in forma pauperis was denied, but he was permitted thirty days to pay the requisite filing fee; failure to pay would result in dismissal of the complaint.

KEY QUOTATIONS

“Prisoners with three strikes who cannot satisfy the imminent danger exception are not barred from filing additional federal actions, rather they are denied the privilege of proceeding in forma pauperis and must pay the requisite filing fee in full prior to commencing a new action.” (Discussion)

“Plaintiff's application to proceed in forma pauperis will be denied. Plaintiff will be granted thirty days to pay the requisite filing fee.” (Conclusion)

FACTUAL BACKGROUND

Patrick Nicholas filed a federal action and sought leave to proceed in forma pauperis. The court found that he had previously brought three civil actions dismissed as frivolous, malicious, or for failure to state a claim. Nicholas disputed that he had accumulated three strikes and asserted that he had not filed one of the prior cases, but the court found that the inmate number in that case matched the inmate number in the present action and that his submission did not rebut the strikes or establish imminent danger of serious physical injury.

PROCEDURAL HISTORY

Plaintiff lodged a complaint in the Eastern District of Pennsylvania in August 2025. That court transferred the action to the Middle District of Pennsylvania on August 26, 2025, after determining that the relevant acts or omissions occurred there. Plaintiff then filed an application to proceed in forma pauperis and a certified prisoner trust-fund statement. After issuing an order to show cause concerning three prior qualifying dismissals, the court denied in forma pauperis status and allowed thirty days to pay the filing fee.

DISPOSITION

CASES CITED

- Ball v. Famiglio, 726 F.3d 448, 467 (3d Cir. 2013)
- Coleman v. Tollefson, 575 U.S. 532 (2015)
- Abdul-Akbar v. McKelvie, 239 F.3d 307, 312 (3d Cir. 2001) (en banc)
- Abdul-Akbar v. McKelvie, 239 F.3d 307, 314 (3d Cir. 2001) (en banc)
- Gibbs v. Ryan, 160 F.3d 160, 162 (3d Cir. 1998)
- Gibbs v. Cross, 160 F.3d 962, 966-67 (3d Cir. 1998)
- Nicholas v. Philadelphia County Prison, No. 2:16-CV-00641-LS, Docs. 18, 19 (E.D. Pa. Mar. 1, 2017)
- Nicholas v. Bumgarner, No. 1:23-CV-00014-BAH, Docs. 36, 37 (D. Md. Nov. 26, 2024)
- Nicholas v. Giola, No. 1:24-CV-01769-JPW-EW, Docs. 29, 30 (M.D. Pa. June 10, 2025)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA PATRICK NICHOLAS,; Civil No. 1:25-CV-01601 Plaintiff,; v.: PENNSYLVANIA D.O.C., et al.,; Defendants.; Judge Jennifer P. Wilson MEMORANDUM Before the court is Plaintiff Patrick Nicholas' pending application to proceed in this action in forma pauperis. (Doc. 6.) Plaintiff has filed multiple cases in multiple federal courts that have been dismissed for failure to state a claim upon which relief may be granted.

Therefore, under the Prison Litigation Reform Act ("PLRA"), Plaintiff's applications to proceed in forma pauperis will be denied. He will be granted thirty days in which to file the requisite filing fee. Should he fail to file the requisite filing fee, his complaint will be dismissed pursuant to 28 U.S.C. § 1914 and Local Rule 4.3. PROCEDURAL HISTORY Plaintiff initiated this action by lodging a complaint with Eastern District of Pennsylvania in August of 2025.

(Doc. 2.) On August 26, 2025, the Eastern District of Pennsylvania transferred the action to this court. (Doc. 4.) Plaintiff then filed a motion to proceed in forma pauperis and a certified prisoner trust fund statement. (Docs. 6, 13.)

The court will now address the pending application to proceed in forma pauperis. JURISDICTION AND VENUE The court has jurisdiction over Plaintiff's action pursuant to 28 U.S.C. § 1331, which allows a district court to exercise subject matter jurisdiction in civil cases arising under the Constitution, laws, or treaties of the United States. This case was transferred to this district after the Eastern District of Pennsylvania determined that the acts or omissions giving rise to the claims occurred in this district.

(Doc. 4.) DISCUSSION Pursuant to 28 U.S.C. §1915(g), a prisoner who has filed three civil actions that were dismissed on the basis that they were frivolous, malicious, or failed to state a claim upon which relief may be granted may not proceed in forma pauperis “unless the prisoner is in imminent danger of serious physical injury” at the time the complaint was filed.

Ball v. Famiglio, 726 F.3d 448, 467 (3d Cir. 2013), abrogated in part by Coleman v. Tollefson, 575 U.S. 532 (2015). Prisoners with three strikes who cannot satisfy the imminent danger exception are not barred from filing additional federal actions, rather they are denied the privilege of proceeding in forma pauperis and must pay the requisite filing fee in full prior to commencing a new action.

Abdul-Akbar v. McKelvie, 239 F.3d 307, 314 (3d Cir. 2001) (en banc). Thus, when denying or revoking a prisoner’s in forma pauperis status because of his or her accrual of three strikes, the court must determine what strikes the prisoner accrued prior to initiating the action immediately before the court. Gibbs v. Ryan, 160 F.3d 160, 162 (3d Cir. 1998). If determined to have three qualifying strikes to their name, then the court must consider whether the prisoner qualifies for the “imminent danger” exception.

When deciding whether a prisoner meets the “imminent danger” requirement, a court must examine the situation faced by the prisoner at the time of the filing of the complaint, and a showing of danger in the past is insufficient to demonstrate “imminent danger.” Abdul-Akbar, 239 F.3d at 312. Allegations of imminent danger must be evaluated in accordance with the liberal pleading standard applicable to pro se litigants, although the Court need not credit “fantastic or delusional” allegations that “rise to the level of irrational or wholly incredible.” Gibbs v. Cross, 160 F.3d 962, 966–67 (3d Cir.

1998) (quotations omitted). First, the court finds that Plaintiff has filed three civil actions that were dismissed on the basis that they were frivolous, malicious, or failed to state a claim upon which relief may be granted. See Nicholas v. Philadelphia County Prison, No. 2:16-CV-00641-LS, Docs. 18, 19 (E.D. Pa. Mar. 1, 2017) (dismissed with prejudice for failing to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii)); Nicholas v. Bumgarner, No. 1:23-CV-00014-BAH, Docs.

36, 37 (D. Md. Nov. 26, 2024) (dismissed with prejudice for failing to state a claim for excessive force); Nicholas v. Giola, No. 1:24-CV-01769-JPW-EW, Docs. 29, 30 (M.D. Pa. Jun. 10, 2025) (dismissed with prejudice for failing to state a claim on which relief may be granted).

Therefore, Plaintiff has accumulated three strikes under 28 U.S.C. 1915(g). On December 2, 2025, the court entered an order to show cause as to why the dismissal of these three prior actions should not be considered strikes against Plaintiff under the PLRA or how he was under imminent danger of serious physical injury at the time the complaint was filed. (Doc.

14.) On December 16, 2025, the court received and docketed a single-page document by Plaintiff that summarized the alleged facts in each of the historical cases and alleged that he did not accumulate three strikes under 28 U.S.C. § 1915(g). (Doc. 15.) Specifically, he alleges that he did not file the case in the Eastern District of Pennsylvania. (Id.)

However, the inmate number in the case file in CM/ECF is the same as in the above-captioned action. This is insufficient to refute the three strikes entered against Plaintiff or establish imminent danger. CONCLUSION For the above-stated reasons, Plaintiff's application to proceed in forma pauperis will be denied. Plaintiff will be granted thirty days to pay the requisite filing fee.

A failure to timely pay the filing fee will result in the complaint being dismissed pursuant to 28 U.S.C. § 1914 and Local Rule 4.3. s/Jennifer P. Wilson JENNIFER P. WILSON United States District Judge Middle District of Pennsylvania Dated: December 29, 2025