

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,
BILLINGS DIVISION

James Morrison v. City of Billings, et al.

CV 25-148-BLG-WWM (D. Mont. Mar. 17, 2026) · No. CV 25-148-BLG-WWM; 1:25-cv-00148 · Decided
March 17, 2026

SUMMARY

The United States District Court for the District of Montana denied James Morrison’s motion to alter or amend an order revoking his in forma pauperis status. The court construed the motion as one for reconsideration and held that Morrison had sufficient opportunity to contest the identified strikes, which included prior dismissals involving tribal sovereignty, immunity, and other fatal deficiencies. The court ordered Morrison to pay the \$405 filing fee by April 6, 2026, or the action would be closed.

CASE DETAILS

COURT	United States District Court for the District of Montana, Billings Division
WRITING FOR THE COURT	William W. Mercer
JURISDICTION	United States District Court for the District of Montana, Billings Division
DECIDED	March 17, 2026
DOCKET	CV 25-148-BLG-WWM; 1:25-cv-00148
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter, amend, or strike the court's prior order revoking his in forma pauperis status. The court construed the filing as a motion for reconsideration under District of Montana Local Rule 7.3 and denied it.
STANDARD OF REVIEW	A motion under Rule 59(e) is available only to alter or amend a judgment within 28 days after entry; because no judgment had been entered, the court treated the filing as a motion for reconsideration under Local Rule 7.3.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

TOPICS

- civil procedure
- tribal sovereignty
- federalism

PRACTICE AREAS

Civil procedure

Prisoner litigation

In forma pauperis proceedings

Federal courts

Tribal sovereignty

QUESTIONS PRESENTED

1. Whether Morrison's filing was a proper motion to alter or amend under Federal Rule of Civil Procedure 59(e).
2. Whether Morrison was entitled to notice and an opportunity to be heard before the court revoked or denied his in forma pauperis status.
3. Whether changes in substantive law required retroactive reassessment of a prior dismissal for purposes of determining a strike under 28 U.S.C. § 1915(g).
4. Whether dismissals based on lack of jurisdiction, a Heck bar, or clearly applicable immunity can qualify as dismissals for failure to state a claim under § 1915(g).
5. Whether Morrison had accumulated at least three qualifying strikes and therefore could not proceed in forma pauperis.

HOLDINGS

1. The filing was not a proper Rule 59(e) motion because no judgment had been entered; it was properly construed as a motion for reconsideration under District of Montana Local Rule 7.3.
2. Morrison was not entitled to notice or an additional opportunity to be heard before the court denied or revoked his in forma pauperis status, and his motion independently gave him an opportunity to be heard.
3. A later change in substantive law does not require retroactive reassessment of whether an earlier action qualified as a strike under § 1915(g).
4. A dismissal may qualify as a strike for failure to state a claim when a fatal deficiency, including lack of jurisdiction, a Heck bar, or immunity, is apparent from the face of the complaint and relief cannot be granted.
5. Morrison had at least three dismissals qualifying as strikes and was not entitled to proceed in forma pauperis.

KEY QUOTATIONS

“Having placed Ray on notice of the three cases that constituted strikes, Andrews I was satisfied. No part of the relevant statute required the court to provide Ray any additional process.” (31 F.4th at 697)

FACTUAL BACKGROUND

Morrison filed this action and sought to proceed in forma pauperis. The court previously determined that he had at least three dismissals qualifying as strikes, including a prior action involving tribal policies and criminal prosecution and a later action against Yellowstone County that was dismissed in the district court and on appeal as frivolous. Morrison challenged the revocation, contending that he lacked prior notice and that intervening changes in substantive law undermined one of the counted dismissals.

PROCEDURAL HISTORY

The court previously revoked Morrison's in forma pauperis status after determining that he had accumulated at least three qualifying strikes under 28 U.S.C. § 1915(g). Morrison sought reconsideration, arguing that he was entitled to notice and an opportunity to be heard before revocation and that two prior dismissals should not count as strikes. The court denied the motion and ordered Morrison to pay the full filing fee by April 6, 2026, or the clerk would close the action.

DISPOSITION

other

CASES CITED

- Andrews v. King, 398 F.3d 1113 (9th Cir. 2005)
- Ray v. Lara, 31 F.4th 692, 697 (9th Cir. 2022)
- Rodriguez v. Cook, 169 F.3d 1176, 1180 (9th Cir. 1999)
- Marks v. Solcum, 98 F.3d 494, 495-96 (9th Cir. 1996)
- Heck v. Humphrey, 512 U.S. 477 (1994)
- Harris v. Harris, 935 F.3d 670, 676 (9th Cir. 2019)
- Morrison v. Spang, CV 10-150-BLG-RFC
- Morrison v. Yellowstone County, et al., CV 24-46-BLG-SPW-TIC