

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS, EL DORADO DIVISION

Jessie Terrell Radford v. Caren Harp; Hunter Scott; Ryan
Rainwater; and B. Shaifers

Radford · No. 1:26-cv-1014 · Decided May 19, 2026

SUMMARY

The United States District Court for the Western District of Arkansas adopts a magistrate judge’s recommendation to deny Jessie Terrell Radford’s application to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). The court finds that the complaint does not allege facts showing imminent danger of serious physical injury and dismisses the action without prejudice, while directing the Clerk to provisionally file future IFP actions for further review.

CASE DETAILS

COURT	United States District Court for the Western District of Arkansas, El Dorado Division
WRITING FOR THE COURT	Susan O. Hickey
JURISDICTION	United States District Court for the Western District of Arkansas, El Dorado Division
DECIDED	May 19, 2026
DOCKET	1:26-cv-1014
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff objected to a magistrate judge's Report and Recommendation recommending denial of in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and dismissal without prejudice.
STANDARD OF REVIEW	De novo review of the portions of the Report and Recommendation to which the plaintiff objected.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated in the opinion.
PARTIES	Jessie Terrell Radford v. Caren Harp, Hunter Scott, Ryan Rainwater, B. Shaifers

TOPICS

prisoners rights

section 1983

civil procedure

PRACTICE AREAS

Prisoner civil rights

Federal civil procedure

In forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Radford qualified for the imminent-danger exception to the three-strikes bar in 28 U.S.C. § 1915(g).
2. Whether the complaint should be dismissed without prejudice after denial of in forma pauperis status.

HOLDINGS

1. The imminent-danger exception did not apply because the complaint did not sufficiently allege that Radford faced imminent danger of serious physical injury at the time of filing.
2. The court denied Radford's application to proceed in forma pauperis and dismissed the complaint without prejudice, allowing him to reopen the action upon payment of the appropriate filing fee.

KEY QUOTATIONS

“Whether the imminent danger exception applies is dependent upon whether the complaint sufficiently alleges that there is imminent danger present at the time of filing.”

FACTUAL BACKGROUND

Radford filed a civil-rights complaint centered on alleged misconduct in his arrest and conviction and sought to proceed in forma pauperis. He did not dispute that he had at least three prior actions qualifying as strikes under § 1915(g). His complaint contained no allegations that he was in imminent danger of serious physical injury at the time of filing, although his objection referred to injuries in prior actions and alleged unsafe conditions unrelated to the complaint.

PROCEDURAL HISTORY

A magistrate judge recommended denying Radford's application to proceed in forma pauperis because he had at least three prior qualifying dismissals under 28 U.S.C. § 1915(g), and recommended dismissal without prejudice to reopening upon payment of the filing fee. Radford timely objected, asserting that the imminent-danger exception applied. The district court rejected the objection, adopted the R&R in toto, denied IFP status, dismissed the complaint without prejudice, and issued instructions concerning future IFP actions filed by Radford.

DISPOSITION

dismissed

CASES CITED

- *McAlphin v. Toney*, 281 F.3d 709, 710-711 (8th Cir. 2002)

OPINION

IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF ARKANSAS EL DORADO DIVISION JESSIE TERRELL RADFORD PLAINTIFF v. Case No. 1:26-cv-1014 CAREN HARP; HUNTER SCOTT; RYAN RAINWATER; and B. SHAIERS DEFENDANTS ORDER Before the Court is a Report and Recommendation (“R&R”) issued by the Honorable Christy D. Comstock, United States Magistrate Judge for the Western District of Arkansas.

ECF No. 10. Judge Comstock recommends that Plaintiff’s Application to Proceed In Forma Pauperis (ECF No. 2) be denied pursuant to 28 U.S.C. § 1915(g), and that this action be dismissed without prejudice to Plaintiff’s right to re-open it with payment of the appropriate filing fee. Judge Comstock explains that Plaintiff has at least three previous actions that qualify as strikes against him under § 1915(g), which precludes his ability to proceed in forma pauperis (“IFP”).

Judge Comstock also states that Plaintiff has not alleged that the exception to this rule applies—that he is in imminent danger of physical injury. Judge Comstock also provides specific directions to be given to the Clerk concerning any new action filed by Plaintiff. Plaintiff filed a timely objection. ECF No. 12. Plaintiff does not dispute that he has three prior strikes pursuant to § 1915(g).

Instead, he asserts that the exception should apply because he is in imminent danger of serious physical injury. Plaintiff’s objection is difficult to follow, but he seems to rely either on multitudinous allegations of injuries underlying previous actions he commenced or on new allegations of unsafe conditions in his confinement to satisfy the imminent danger exception.

There are no such allegations in the Complaint, which asserts claims centered on misconduct in Plaintiff’s arrest and conviction. ECF No. 1. Section 1915(g) reads: In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding [IFP] 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.

28 U.S.C. § 1915(g). Whether the imminent danger exception applies is dependent upon whether the complaint sufficiently alleges that there is imminent danger present at the time of filing. See *McAlphin v. Toney*, 281 F.3d 709, 710-711 (8th Cir. 2002).

Here, Plaintiff’s Complaint has no allegations indicating that he faces imminent physical danger.¹ Without such allegations, the OF imminent danger exception to § 1915(g) does not apply. See *id.* Therefore, the Court agrees with Judge Comstock’s recommendation. Upon review, the Court

adopts Judge Comstock's R&R (ECF No. 10) in toto. Plaintiff's Application to Proceed IFP (ECF No. 2) is DENIED and Plaintiff's Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE.

Further, the Clerk of this Court is directed to provisionally file any new action in which Jessie Terrell Radford seeks to proceed IFP. The Magistrate Judge shall then review the action. If it is a civil action—rather than a criminal or habeas one—and Radford has not asserted a valid claim that he is under imminent danger of serious physical injury, the Magistrate Judge shall recommend that IFP status be denied.

IT IS SO ORDERED, this 19th day of May, 2026. /s/ Susan O. Hickey Susan O. Hickey United States District Judge 1 The Court does not consider the dangers Plaintiff alleges in his objection as a supplement to the Complaint.

The assorted dangers he mentions in his objection have no connection to the factual allegations underlying his Complaint.