

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Diaz v. Osman

Diaz v. Osman · No. 2:23-cv-1449-DAD-JDP (P) · Decided April 18, 2025

SUMMARY

The court dismisses plaintiff Miguel Enrique Diaz’s first amended complaint with leave to amend because he is a three-striker under 28 U.S.C. § 1915(g) and has not shown imminent physical danger. The court denies two duplicative in forma pauperis applications and a motion for extension of time, directs plaintiff to file an amended complaint or notice of voluntary dismissal within thirty days, and warns that failure to do so may result in dismissal with prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 18, 2025
DOCKET	2:23-cv-1449-DAD-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed an amended prisoner civil-rights complaint and applications to proceed in forma pauperis. The magistrate judge dismissed the amended complaint with leave to amend and denied two duplicative in forma pauperis applications and an extension motion.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Miguel Enrique Diaz v. M. Osman, et al.

TOPICS

- prisoners rights
- section 1983
- pleadings
- civil procedure
- sanctions

PRACTICE AREAS

- prisoner civil rights
- federal civil procedure
- in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether a prisoner with at least three qualifying dismissals may proceed in forma pauperis when the complaint does not show that he was under imminent danger of serious physical injury.
2. Whether the amended complaint improperly joined separate and unrelated claims against multiple defendants.
3. Whether allegations in a separate filing may be considered to establish imminent danger when evaluating the complaint.
4. What disposition and filing requirements should apply to the deficient amended complaint and duplicative in forma pauperis applications.

HOLDINGS

1. A prisoner who has had at least three actions dismissed for failure to state a claim may proceed in forma pauperis only if the complaint shows that the prisoner is under imminent danger of serious physical injury; Diaz's amended complaint did not make that showing.
2. A prisoner may not bring separate and unrelated claims against multiple defendants in a single complaint.
3. The court may decline to consider allegations in a separate filing when determining whether the complaint itself establishes imminent physical danger for purposes of 28 U.S.C. § 1915(g).
4. An amended complaint supersedes its predecessors and must be complete in itself; plaintiff may not refer to other filings to bolster the amended complaint.

KEY QUOTATIONS

“Plaintiff is advised that he may not bring separate and unrelated claims against multiple defendants.” (2)

“Plaintiff is advised that any amended complaint will supersede its predecessors and, thus, must be complete in itself.” (2)

FACTUAL BACKGROUND

Plaintiff alleged inadequate wound care for a foot injury, denial of incontinence supplies in retaliation for grievances, delays or denials involving food and insulin, and failure to provide ice during hot weather. The alleged events involved separate medical and prison-condition claims, and the court found that the allegations did not establish imminent physical danger as required to overcome the three-strikes bar. Plaintiff also attempted to rely on allegations in a separate filing, rather than solely on the complaint.

PROCEDURAL HISTORY

Diaz filed this prisoner civil-rights action and later filed an amended complaint. Because he had at least three prior actions dismissed for failure to state a claim, the court treated him as a three-striker under 28 U.S.C. § 1915(g). The court found that the amended complaint did not show imminent physical danger, dismissed it with leave to amend, denied two duplicative in forma pauperis applications and an unnecessary extension motion, and allowed thirty days to file another amended complaint or a notice of voluntary dismissal.

DISPOSITION

other

CASES CITED

- Diaz v. Diaz, et al., No. 1:13-cv-0453-SKO (E.D. Cal. July 28, 2014)
- Diaz v. Vasquez, et al., No. 1:12-cv-0732-SAB (E.D. Cal. Feb. 25, 2013)
- Diaz v. Diaz, No. 1:12-cv-1296-AWI-SAB (E.D. Cal. Sept. 4, 2014)
- George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007)

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