

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

**Darrell Eugene Johnson, A.K.A. Darryl E. Johnson v. Cal.  
Correctional Health Care Services, et al.**

Johnson v. Cal. Correctional Health Care Services · No. 1:25-cv-00921 GSA (PC) · Decided September 29, 2025

SUMMARY

The United States Magistrate Judge recommends denying Darrell Eugene Johnson’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 finds that Johnson had accrued at least three qualifying strikes and had not adequately alleged imminent danger of serious physical injury when he filed the action, and therefore recommends requiring payment of the filing fee in full before proceeding.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Gary S. Austin                                                                                                                                                                                                                                                                                                                                                   |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                              |
| DECIDED               | September 29, 2025                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | 1:25-cv-00921 GSA (PC)                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | A state prisoner filed a civil-rights action under 42 U.S.C. § 1983 and applied to proceed in forma pauperis. The magistrate judge issued findings and recommendations recommending denial of in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision and requiring payment of the filing fee before the action could proceed. |
| STANDARD OF REVIEW    | The court reviewed the prior dismissals and the complaint to determine whether plaintiff had accrued at least three qualifying strikes and whether the complaint plausibly alleged imminent danger of serious physical injury at the time of filing.                                                                                                             |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                                                                                                                                      |
| PARTIES               | Darrell Eugene Johnson, A.K.A. Darryl E. Johnson v. Calif. Correctional Health Care Services, et al.                                                                                                                                                                                                                                                             |

## TOPICS

prisoners rights

section 1983

civil rights

civil procedure

motions to dismiss

## PRACTICE AREAS

prisoner civil rights

in forma pauperis

federal civil procedure

## QUESTIONS PRESENTED

1. Whether plaintiff had accrued at least three prior strikes under 28 U.S.C. § 1915(g).
2. Whether plaintiff's complaint alleged facts demonstrating that he was under imminent danger of serious physical injury when the complaint was filed.
3. Whether plaintiff therefore could proceed in forma pauperis or was required to pay the filing fee in full before proceeding.

## HOLDINGS

1. Plaintiff had accrued at least three prior strikes because prior actions had been dismissed for failure to state a claim, as frivolous or duplicative, or after dismissal for failure to state a claim followed by a failure to amend.
2. Plaintiff did not plausibly allege that he was under imminent danger of serious physical injury when he filed the complaint.
3. Plaintiff's application to proceed in forma pauperis should be denied, and plaintiff should be required to pay the filing fee in full before proceeding further.

## KEY QUOTATIONS

*"To proceed in forma pauperis is a privilege not a right."* (at 5)

*"An inmate who has accrued three strikes is precluded from proceeding in forma pauperis unless he is "under imminent danger of serious physical injury.""* (at 7)

*"Imminent danger of serious physical injury must be a real and present threat, not merely speculative or hypothetical."* (at 8)

## FACTUAL BACKGROUND

Plaintiff, a state prisoner, filed a § 1983 complaint concerning medical risks and treatment associated with his prior incarceration at North Kern Reception Center. At the time he filed the complaint, he was housed at Solano State Prison rather than North Kern. Court records showed at least three prior qualifying strikes, and plaintiff confirmed that the prior cases were his despite using inconsistent names and prisoner identification numbers.

## PROCEDURAL HISTORY

Plaintiff filed the complaint and an in forma pauperis application on July 22, 2025, and the case was transferred to the relevant division on July 28, 2025. After reviewing plaintiff's identity information and prior litigation, the

court determined that at least three prior cases qualified as strikes under 28 U.S.C. § 1915(g). Plaintiff was ordered to show cause regarding discrepancies in his name and prisoner identification number; he confirmed that he was the person associated with the prior cases but did not allege facts showing imminent danger of serious physical injury when he filed this action. The magistrate judge recommended denying in forma pauperis status and requiring plaintiff to pay the filing fee in full, subject to fourteen days for objections.

## DISPOSITION

other

## CASES CITED

- Rodriguez v. Cook, 169 F.3d 1176, 1180 (9th Cir. 1999)
- Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1963)
- Keeton v. Marshall, No. CV 17-01213 FMO (KS), 2018 WL 4381543, at \*6 (C.D. Cal. June 8, 2018)
- Owens v. Matthews, No. CV 16-07755 JFW (KS), 2017 WL 603183, at \*2 (C.D. Cal. Jan. 6, 2017)
- Weller v. Dickson, 314 F.2d 598, 600 (9th Cir. 1963)
- Shobe v. People of State of California, 362 F.2d 545, 546 (9th Cir. 1966)
- Knapp v. Hogan, 738 F.3d 1106, 1109 (9th Cir. 2013)
- Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2006)
- O'Neal v. Price, 531 F.3d 1146, 1153 (9th Cir. 2008)
- Harris v. Mangum, 863 F.3d 1133, 1142-43 (9th Cir. 2017)
- Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)
- Abdul-Akbar v. McKelvie, 239 F.3d 307, 312-14 (3d Cir. 2001)
- Medberry v. Butler, 185 F.3d 1189, 1192-93 (11th Cir. 1999)
- Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998)
- Banos v. O'Guin, 144 F.3d 883, 885 (5th Cir. 1998)
- Lipsey v. Allison, No. 1:21-cv-00912 GSA, 2021 WL 2390424, at \*3 (E.D. Cal. June 11, 2021)
- Blackman v. Mjening, No. 1:16-cv-01421 LJO GSA, 2016 WL 5815905, at \*1 (E.D. Cal. Oct. 4, 2016)
- Ray v. Lara, 31 F.4th 692, 695 (9th Cir. 2022)
- United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992)
- Roberts v. Marshall, 627 F.3d 768, 769 n.1 (9th Cir. 2010)
- Jenkins v. Johnson, 330 F.3d 1146, 1149 n.2 (9th Cir. 2003)
- Pace v. DiGuglielmo, 544 U.S. 408 (2005)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)