

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Dyer v. Spears

Dyer · No. 24-cv-07439-JSC · Decided September 22, 2025

SUMMARY

The United States District Court for the Northern District of California denied Plaintiff Jewel Evern Dyer’s application to proceed in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). The court dismissed the action without prejudice, finding that Plaintiff failed to plausibly show imminent danger of serious physical injury and denying his pending motions to amend, for appointment of counsel, and related relief.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jacqueline Scott Corley
JURISDICTION	United States District Court for the Northern District of California
DECIDED	September 22, 2025
DOCKET	24-cv-07439-JSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	A prisoner civil-rights plaintiff applied to proceed in forma pauperis and filed motions to amend, for appointment of counsel, for photocopies, and to change the time for screening. The court ordered him to show cause why his IFP application should not be denied under the PLRA's three-strikes provision. After considering his response, the court denied IFP and dismissed the action without prejudice.
STANDARD OF REVIEW	The court applied the pleading standard for the imminent-danger exception to 28 U.S.C. § 1915(g), requiring a plausible allegation of imminent danger of serious physical injury at the time of filing and a nexus between the alleged danger and the claims. The court also applied the rule that appointment of counsel in a civil case is discretionary and requires exceptional circumstances.
PRECEDENTIAL VALUE	unpublished district court order; limited persuasive value
PARTIES	Jewel Evern Dyer v. Joyce Spears, Timothy Pearce

TOPICS

civil procedure section 1983 prisoners rights civil rights motion to amend

PRACTICE AREAS

Civil procedure Prisoner civil rights In forma pauperis litigation Federal remedies

QUESTIONS PRESENTED

1. Whether Plaintiff qualified for the imminent-danger exception to the PLRA's three-strikes bar under 28 U.S.C. § 1915(g).
2. Whether Plaintiff established the required nexus between the alleged imminent danger and the claims and relief sought in the complaint.
3. Whether the court could consider Plaintiff's motions to amend after dismissing the action without prejudice for failure to qualify for IFP status.
4. Whether appointment of counsel was warranted in the circumstances presented.

HOLDINGS

1. Plaintiff did not plausibly allege that he faced an imminent danger of serious physical injury when he filed the action, so he did not qualify for the statutory exception to the three-strikes bar.
2. Plaintiff failed to establish the required nexus between the alleged imminent danger and his claims because the relief sought would not redress the alleged stomach injuries.
3. Plaintiff's motions to amend were denied because the action was being dismissed without prejudice to refile after payment of the filing fee, leaving no basis to amend the complaint in the dismissed action.
4. Appointment of counsel was not warranted because there is no right to counsel in an ordinary civil case and Plaintiff had not shown exceptional circumstances.

KEY QUOTATIONS

“As Plaintiff has at least three strikes, he may not proceed in forma pauperis unless he was in “imminent danger of serious physical injury” when he filed this case.” (at 1)

“Therefore, Plaintiff has failed to satisfy the second requirement for a nexus between the asserted imminent danger and his claims in the complaint.” (at 4)

FACTUAL BACKGROUND

Plaintiff was incarcerated in the Mendocino County Jail and alleged that jail water was causing stomach problems, artificial lactose intolerance, and other gastrointestinal symptoms. He sought declaratory relief, damages, an injunction concerning the showers, and release from custody. The court found the allegations vague, conclusory, or implausible and concluded that the requested civil-rights remedies would not redress the alleged stomach injuries.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint against current and former jail officials and sought leave to proceed in forma pauperis. The court identified at least three prior qualifying dismissals under 28 U.S.C. § 1915(g), issued an order to show cause, and concluded that Plaintiff had not plausibly alleged imminent danger of serious physical injury or established the required nexus between the alleged danger and the requested relief. The court denied the IFP application, dismissed the case without prejudice, denied the pending motions to amend and appoint counsel, denied the motion to change the screening time as moot, and directed the Clerk to enter judgment and close the file.

DISPOSITION

dismissed

CASES CITED

- Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2005)
- Andrews v. Cervantes, 493 F.3d 1047, 1053, 1055 (9th Cir. 2007)
- Ray v. Lara, 31 F.4th 692, 695, 701 (9th Cir. 2022)
- Skinner v. Switzer, 562 U.S. 521, 533-34 (2011)
- Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007)
- Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998)
- Lassiter v. Dep't of Social Services, 452 U.S. 18, 25 (1981)
- Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984)