

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Frederick Banks v. Jordan Cisco, et al.

Banks v. Cisco · No. 25-cv-19020-ESK-MJS · Decided December 30, 2025

SUMMARY

The United States District Court for the District of New Jersey denied Frederick Banks’s application to proceed in forma pauperis under the Prison Litigation Reform Act’s three-strikes provision. The court found that the complaint, alleging constitutional violations arising from a corrections officer’s conduct and alleged retaliation, did not show that Banks was under imminent danger of serious physical injury. The case was administratively terminated, with reopening conditioned on payment of the filing and administrative fees.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Edward S. Kiel
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 30, 2025
DOCKET	25-cv-19020-ESK-MJS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a federal prisoner, sought leave to proceed in forma pauperis on a Bivens complaint. The court denied the application under the Prison Litigation Reform Act's three-strikes provision and administratively terminated the case without filing the complaint.
STANDARD OF REVIEW	The court applied the statutory eligibility requirements for proceeding in forma pauperis under 28 U.S.C. § 1915(g), including whether the prisoner satisfied the imminent-danger exception.
PRECEDENTIAL VALUE	Unknown; district court opinion with no published reporter citation.

TOPICS

- prisoners rights
- civil rights
- civil procedure
- constitutional law

PRACTICE AREAS

- Prisoner civil rights
- Federal civil procedure
- In forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Banks was barred by the Prison Litigation Reform Act's three-strikes provision from proceeding in forma pauperis.
2. Whether Banks qualified for the imminent-danger exception to 28 U.S.C. § 1915(g).
3. Whether the case should be administratively terminated without filing the complaint until Banks paid the required filing and administrative fees.

HOLDINGS

1. A prisoner with at least three prior civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim may not proceed in forma pauperis unless the imminent-danger exception applies. Banks had at least three qualifying dismissals.
2. Banks did not qualify for the imminent-danger exception because his complaint concerned past conduct and contained no facts showing that he faced imminent danger of serious physical injury when the action was filed.
3. The application to proceed in forma pauperis was denied, and the Clerk was directed to administratively terminate the case without filing the complaint until Banks paid the \$405 filing and administrative fees.

KEY QUOTATIONS

“The statute contemplates that the ‘imminent danger’ will exist contemporaneously with the bringing of the action.” (Abdul-Akbar, 239 F.3d at 313)

“Therefore, plaintiff’s Application is denied pursuant to 28 U.S.C. § 1915(g).” (Disposition)

FACTUAL BACKGROUND

Frederick Banks was detained at FCI Fort Dix, New Jersey. He alleged that corrections officer Jordan Cisco looked over the top of his toilet stall and later fabricated a disciplinary report accusing Banks of possessing contraband in retaliation for Banks's objection to the bathroom conduct. Banks claimed emotional distress, humiliation, anxiety, fear of retaliation, harm to his institutional record, and exposure to loss of liberty interests, but the complaint alleged no ongoing or prospective danger of serious physical injury.

PROCEDURAL HISTORY

Frederick Banks submitted a Bivens complaint and an application to proceed in forma pauperis. The court determined that he had at least three prior qualifying dismissals and that his allegations concerning past conduct did not establish imminent danger of serious physical injury. The court denied in forma pauperis status, administratively terminated the case without filing the complaint, and directed that the matter could be reopened upon payment of the filing and administrative fees.

DISPOSITION

other

CASES CITED

- *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)
- *Garrett v. Murphy*, 17 F.4th 419, 425 (3d Cir. 2021)
- *Banks v. U.S. Marshal*, 274 F. App'x 631, 635 (10th Cir. 2008)
- *Banks v. Cnty. of Allegheny*, 568 F. Supp. 2d 579, 585 (W.D. Pa. 2008)
- *In re Banks*, 450 F. App'x 155, 157 n. 1 (3d Cir. 2011)
- *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 312-13 (3d Cir. 2001) (en banc)
- *Ball v. Hummel*, 577 F. App'x 96, 96 n. 1 (3d Cir. 2014) (per curiam)
- *Pettus v. Morgenthau*, 554 F.3d 293, 296 (2d Cir. 2009)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY FREDERICK BANKS, Case No. 25–cv–19020–ESK–MJS Plaintiff, v. OPINION JORDAN CISCO, et al., Defendants. KIEL, U.S.D.J. Plaintiff Frederick Banks, a prisoner detained in FCI Fort Dix, New Jersey, submitted a Complaint pursuant to *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971) (Complaint). (ECF No. 1.)

Pursuant to Local Civil Rule 54.3, the Clerk shall not be required to enter any suit, file any paper, issue any process, or render any other service for which a fee is prescribed, unless the fee is paid in advance. Plaintiff seeks permission to proceed in forma pauperis (Application). (ECF No. 1–1.)

The Prison Litigation Reform Act (PLRA) amended § 1915 and established certain financial requirements for prisoners who are attempting to bring a civil action in forma pauperis.¹ The PLRA contains a “three strikes” provision that “prevents a prisoner from suing in forma pauperis—that is, without first paying the filing fee—if three or more civil actions or appeals filed by the prisoner have previously been dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner 1 “‘Prisoner’ means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.” 28 U.S.C. § 1915(h). is under imminent danger of serious physical injury.” *Garrett v. Murphy*, 17 F.4th 419, 425 (3d Cir.

2021) (cleaned up) (citing 28 U.S.C. § 1915(g)). Plaintiff has had at least three qualifying dismissals: *Banks v. U.S. Marshal*, 274 F. App'x 631, 635 (10th Cir. 2008) (dismissing two appeals, Nos. 07–06191 and 07–06230, as frivolous); *Banks v. Cnty. of Allegheny*, 568 F. Supp. 2d 579, 585 (W.D. Pa. 2008) (granting motion to dismiss for failure to state a claim); see also *In re Banks*, 450 F. App'x 155, 157 n. 1 (3d Cir.

2011) (noting plaintiff is “a three-strikes litigant.”) Therefore, he may not proceed in forma pauperis unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Plaintiff

alleges that defendant Jordan Cisco, a corrections officer, violated his First, Fourth, and Fifth Amendment rights when Cisco looked over the top of plaintiff's toilet stall.

(ECF No. 1 p. 2.) Plaintiff also alleges that Cisco fabricated a disciplinary report accusing plaintiff of having contraband to retaliate against plaintiff for objecting to Cisco's behavior in the bathroom. (Id. p. 3.) He asserts Cisco's actions caused him "emotional distress, humiliation, anxiety, fear of further retaliation, damage to his institutional record, and exposure to loss of liberty interests." (Id.) "[A] prisoner may invoke the 'imminent danger' exception only to seek relief from a danger which is 'imminent' at the time the complaint is filed." *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 312 (3d Cir.

2001) (en banc). "The statute contemplates that the 'imminent danger' will exist contemporaneously with the bringing of the action. Someone whose danger has passed cannot reasonably be described as someone who 'is' in danger, nor can that past danger reasonably be described as 'imminent.'" Id. at 313.

Moreover, "[t]o fulfill the 'imminent danger' requirements, [plaintiff] must demonstrate an adequate nexus between the claims" in the complaint "and the 'imminent danger [he] alleges.'" *Ball v. Hummel*, 577 F. App'x 96, 96 n. 1 (3d Cir. 2014) (per curiam) (quoting *Pettus v. Morgenthau*, 554 F.3d 293, 296 (2d Cir. 2009)). Plaintiff's Complaint concerns past actions and has no facts that suggest plaintiff will be in imminent danger of serious physical injury if he is not permitted to proceed in forma pauperis.

Therefore, plaintiff's Application is denied pursuant to 28 U.S.C. § 1915(g). The Clerk shall be ordered to administratively terminate the case without filing the Complaint. Plaintiff must pay the \$ 405 filing and administrative fees before the Complaint may be filed.

The Clerk will be directed to reopen the matter once plaintiff pays the filing fee. An appropriate Order accompanies this Opinion. /s/ Edward S. Kiel EDWARD S. KIEL UNITED STATES DISTRICT JUDGE Dated: December 30, 2025