

From: Mr. Rickey Benson #204821  
Shelby Cnty. Corr. Center  
1045 Mullins Station Rd.  
Mphis., TN 38134

To: Office of The Clerk  
Supreme Court of The United States  
Washington, D.C. 20543-0001

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Petition To Extend Time To File Petition For A Writ of Certiorari On  
USCAB, No. 24-5790 Due To And Herewith Petition For Court To  
Appoint Counsel To File And Represent Petitioner On Petition For A Writ  
Of Certiorari On USCAB, No. 24-5790 Under The S. Ct. Rules And The 1st, 4th  
And 14th Amendments

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Cause Of Action: On Apr. 2, 2025, the USCAB denied my petition for re-  
hearing order Filed: Jan. 16, 2025 of USCAB, No. 24-5790.

I request that the Court appoint me a Counselor because I am an  
inmate who lack knowledge, wisdom and understanding of the laws/rules  
to prosecute this case on my own, and I am also mentally and phys-  
ically sick in state custody, in which county, state and federal of-  
ficials are taking advantage of me and also mistreating me because  
I am a poor inmate.

I am requesting for an additional ninety  
(90) days to file a petition for a writ of Certiorari on USCAB, No. 24-  
5790, because I pray that this Honorable Court will grant my pe-  
tition for a court-appointed Counsel to file and represent me on  
a petition for a writ of certiorari on USCAB, No. 24-5790 due to  
the seriousness of the case under S. Ct. Rule 13.5.

Dated: Apr. 16, 2025

Signed: (Mr.) Rickey Benson

Proof Of Service

I swear that a copy of this Petition(s) was sealed inside a prepaid  
stamped envelope addressed to: Office of The Clerk, Supreme Court of  
the United States, Washington, D.C. 20543-0001, and placed in the SC-  
CC mailing system on Apr. 17, 2025.

Signed: (Mr.) Rickey Benson

No. 24-5790

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**FILED**

Jan 16, 2025

KELLY L. STEPHENS, Clerk

RICKEY BENSON,

Plaintiff-Appellant,

v.

J. FIELDS, Chief Jailer and/or subordinates;  
DEPUTY WRIGHT,

Defendants-Appellees.

ORDER

Before: BOGGS, Circuit Judge.

Rickey Benson, a pro se inmate formerly housed at the Shelby County Criminal Justice Center and a frequent litigant, moves to proceed in forma pauperis in his appeal from the district court's dismissal of his civil rights action pursuant to the "three-strikes" provision, 28 U.S.C. § 1915(g). Benson also moves for oral argument.

In March 2024, Benson sued Chief Jailer Kirk Fields, unnamed "subordinates," and Deputy Wright under 42 U.S.C. § 1983. He alleged that, on February 19, 2024, while he was housed at the Shelby County Criminal Justice Center, "Field and/or subordinates" allowed Wright to come to his pod and "mak[e] threats to physically harm [him] the first chance he get[s] at the Shelby County Jail, and also gun [him] down on the streets when [he] get[s] released from the Shelby County Jail" due to two grievances he had filed. Benson asserted that this caused him "mental anguish and mental and emotional distress and pain and suffering by intimidation" and "plac[ed] him under imminent danger of serious physical injury." Benson moved to proceed in forma pauperis.

Because Benson has more than three prior civil actions that were dismissed for failure to state a claim or as frivolous and did not sufficiently allege that he was in imminent danger of

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serious physical injury at the time he filed suit, *see* 28 U.S.C. § 1915(g), the district court denied Benson's motion to proceed in forma pauperis and dismissed the complaint without prejudice. The court stated that it would reopen the case on a motion from Benson filed within 28 days and accompanied by payment of the filing fee. The court ordered that, if Benson failed to so move, the matter would be dismissed with prejudice. Benson did not move to reopen the case, and the district court entered an order and judgment of dismissal with prejudice. Benson now appeals that judgment.

A prisoner who has previously had three or more actions or appeals dismissed as frivolous, as malicious, or for failure to state a claim is barred from proceeding in forma pauperis in the district court or on appeal "unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). To satisfy the imminent-danger exception, a prisoner must allege "facts from which a court, informed by its judicial experience and common sense, could draw the reasonable inference that [he] was under an existing danger at the time he filed his complaint" or, on appeal to this court, at the time that he filed his appeal. *Vandiver v. Prison Health Servs., Inc.*, 727 F.3d 580, 585 (6th Cir. 2013) (alteration in original) (quoting *Taylor v. First Med. Mgmt.*, 508 F. App'x 488, 492 (6th Cir. 2012)); *see Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003). Allegations of past danger, as well as wholly speculative or conclusory allegations of danger, are insufficient to satisfy the imminent-danger exception. *Vandiver*, 727 F.3d at 585.

Benson is barred by the three-strikes provision from proceeding in forma pauperis on appeal. First, he has accrued at least three strikes. *See, e.g., Benson v. Luttrell*, No. 2:08-cv-02825 (W.D. Tenn. Jan. 9, 2009); *Benson v. Luttrell*, No. 2:07-cv-02790 (W.D. Tenn. Sept. 11, 2008); *Benson v. Luttrell*, No. 2:04-cv-02507 (W.D. Tenn. Oct. 26, 2004). Second, Benson's allegation of a verbal threat from Wright fails to show that he was in immediate danger of physical injury at the time he filed his complaint. *See Rittner v. Kinder*, 290 F. App'x 796, 798 (6th Cir. 2008); *Shephard v. Marbley*, 23 F. App'x 491, 492 (6th Cir. 2001). And there is no indication in the complaint that he was subjected to continued threats. Benson also has not alleged in this court that he was in any imminent danger when he filed his appeal.

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For these reasons, Benson's motion to proceed in forma pauperis is **DENIED**. Unless he pays the \$605 filing fee within 30 days of the entry of this order, this appeal will be dismissed for want of prosecution. His motion for oral argument will not be considered unless and until the filing fee is paid.

ENTERED BY ORDER OF THE COURT

  
Kelly L. Stephens, Clerk

**FILED**  
Apr 2, 2025  
KELLY L. STEPHENS, Clerk

**FILED**  
Apr 2, 2025  
KELLY L. STEPHENS, Clerk

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