

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

Kelly L. Stephens
Clerk

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Filed: November 12, 2025

Mr. Stephen D. Phillips
Northwest Correctional Complex
960 State Route 212
Tiptonville, TN 38079

Re: Case No. 25-5426, *Stephen Phillips v. Correctional Officers, et al*
Originating Case No. 1:24-cv-01183

Dear Mr. Phillips,

The Court issued the enclosed Order today in this case. The **\$605.00** filing fee is due to the district court by **December 12, 2025**.

Sincerely yours,

s/Kelly Stephens
Appeal Case Manager: Gretchen
Direct Dial No. 513-564-7018

cc: Ms. Wendy R. Oliver

Enclosure

No. 25-5426

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

Nov 12, 2025

KELLY L. STEPHENS, Clerk

STEPHEN D. PHILLIPS,

Plaintiff-Appellant,

v.

CORRECTIONAL OFFICERS; FOOD
STEWARDS; CORRECTIONAL OFFICER
MOORE,

Defendants-Appellees.

ORDER

Before: KETHLEDGE, Circuit Judge.

Stephen D. Phillips, a pro se Tennessee prisoner, moves to proceed in forma pauperis in his appeal from the district court's judgment dismissing his civil-rights complaint pursuant to the "three-strikes" rule set forth in the Prison Litigation Reform Act, 28 U.S.C. § 1915(g). For the reasons that follow, Phillips's motion is denied.

Phillips filed this lawsuit under 42 U.S.C. § 1983, alleging that, on August 17 and 18, 2024, correctional officers and food stewards at his prison refused to put any fruit on his breakfast tray. He sued the defendants for \$1.5 million in damages, claiming that they violated his constitutional rights.

Phillips moved to proceed in forma pauperis, but the district court denied the motion under § 1915(g)'s three-strikes rule and dismissed his complaint without prejudice. However, the court stated that it would reopen the case on a motion from Phillips filed within 28 days and accompanied by payment of the filing fee. The court warned that, if Phillips failed to so move, the matter would be dismissed with prejudice. Phillips sought reconsideration of the dismissal order, to no avail. When Phillips did not move to reopen the case in the allotted time, the district

No. 25-5426

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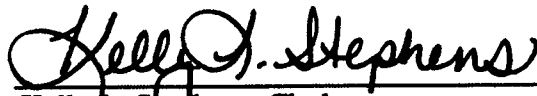
court dismissed the case with prejudice for lack of prosecution. The court also certified, pursuant to § 1915(a)(3), that Phillips had no good-faith basis to appeal. This appeal followed.

When a district court has certified that a party's appeal is not taken in good faith, the plaintiff may move this court for leave to proceed in forma pauperis. Fed. R. App. P. 24(a)(5). Section 1915(g) provides that a prisoner who has previously had three or more actions or appeals dismissed because they were frivolous, malicious, or failed to state a claim cannot proceed in forma pauperis "unless the prisoner is under imminent danger of serious physical injury." Allegations of past danger, as well as wholly speculative or conclusory allegations of danger, are insufficient to satisfy the exception. *Vandiver v. Prison Health Servs., Inc.*, 727 F.3d 580, 585 (6th Cir. 2013).

Here, Phillips has at least three prior actions that qualify as "strikes" under § 1915(g). *See, e.g., Phillips v. Riley*, No. 1:22-cv-01264 (W.D. Tenn. July 1, 2024) (dismissing for failure to state a claim); *Phillips v. Watkins*, No. 1:22-cv-01250, 2023 WL 5253038, at *4 (W.D. Tenn. Aug. 15, 2023) (same); *Phillips v. Woods*, No. 1:23-cv-01079 (W.D. Tenn. Aug. 15, 2023) (same). And his allegations do not satisfy § 1915(g)'s imminent-danger exception. Phillips alleged that prison officials withheld fruit from his breakfast tray on two days in August 2024, which adversely affected his "physical and psychological" health. But he failed to allege any facts indicating that those were anything more than isolated incidents in the past, or that he was placed in imminent danger of serious physical injury by not receiving the sides of fruit. *See Gresham v. Meden*, 938 F.3d 847, 850 (6th Cir. 2019) (holding that a physical injury is "serious" for purposes of this provision if it has "potentially dangerous consequences such as death or severe bodily harm").

For these reasons, Phillips's motion to proceed in forma pauperis on appeal is **DENIED**. Unless Phillips pays the \$605 filing fee to the district court within 30 days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

Case No. 25-5426

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

ORDER

STEPHEN D. PHILLIPS

Plaintiff - Appellant

v.

CORRECTIONAL OFFICERS; FOOD STEWARDS; CORRECTIONAL OFFICER MOORE

Defendants - Appellees

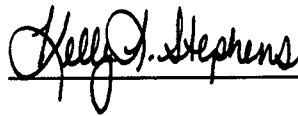
Appellant having previously been advised that failure to satisfy certain specified obligations would result in dismissal of the case for want of prosecution and it appearing that the appellant has failed to satisfy the following obligation(s):

The proper fee was not paid by December 12, 2025.

It is therefore **ORDERED** that this cause be, and it hereby is, dismissed for want of prosecution.

**ENTERED PURSUANT TO RULE 45(a),
RULES OF THE SIXTH CIRCUIT**
Kelly L. Stephens, Clerk

Issued: December 30, 2025

A handwritten signature in cursive script, reading "Kelly L. Stephens", is written over a horizontal line.

Case No. 25-5426

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ORDER

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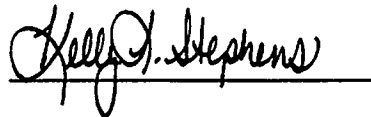
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**Additional material
from this filing is
available in the
Clerk's Office.**