

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 03-2450

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James Kenneth Anderson,

Appellant,

v.

Judy C. Langley, Circuit Clerk,  
Miller County,

Appellee.

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\* Appeal from the United States  
\* District Court for the Eastern  
\* District of Arkansas.  
\* [UNPUBLISHED]  
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Submitted: July 24, 2003  
Filed: December 23, 2003

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Before LOKEN, Chief Judge, BYE, and MELLOY, Circuit Judges.

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PER CURIAM.

Arkansas inmate James Anderson appeals the district court's order denying his in forma pauperis (IFP) application under 28 U.S.C. § 1915(g), and dismissing his complaint without prejudice for his failure to prepay the full filing fee. The district court, in examining Anderson's prior actions for purposes of section 1915(g), counted as "strikes" one action that was dismissed for failure to state a claim, another that was dismissed without prejudice for want of exhaustion, and another that was dismissed for failure to prosecute. We believe the latter two dismissals may not fall within the ambit of section 1915(g). Nevertheless, because Anderson filed another two actions in the Western District of Arkansas, not considered by the district court

here, that were dismissed for failing to state a claim, giving him a total of three such dismissals, we agree that he is not eligible to proceed IFP absent an allegation of imminent danger of serious physical injury. See 28 U.S.C. § 1915(g). Accordingly, with the modifications noted, we affirm the district court's order.

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