

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Ashford v. Google, Inc.

Ashford · No. 25-cv-0327-BJC-AHG · Decided April 29, 2025

SUMMARY

The United States District Court for the Southern District of California grants Burk N. Ashford’s renewed application to proceed in forma pauperis under 28 U.S.C. § 1915(a). The court concludes that his reported income and limited bank balance indicate he cannot pay the filing fee while affording the necessities of life.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Benjamin J. Cheeks
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 29, 2025
DOCKET	25-cv-0327-BJC-AHG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a renewed application to proceed in forma pauperis after the court denied his initial application.
STANDARD OF REVIEW	The granting or denial of leave to proceed in forma pauperis in a civil case is within the sound discretion of the district court.
PRECEDENTIAL VALUE	unknown
PARTIES	Burk N. Ashford v. Google, Inc., Yahoo

TOPICS

- civil procedure
- injunctions

PRACTICE AREAS

- civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff established under 28 U.S.C. § 1915(a) that he was unable to pay the filing fee while still affording the necessities of life.
2. Whether the court should grant Plaintiff's renewed application to proceed in forma pauperis.

HOLDINGS

1. A plaintiff may proceed in forma pauperis when the application and supporting affidavit establish that the plaintiff cannot pay court costs while still affording the necessities of life. Plaintiff's reported income and bank balance satisfied that standard despite his incomplete accounting of monthly expenses.

KEY QUOTATIONS

“Although he does not provide an accurate accounting of his monthly expenses, Plaintiff's income and bank account indicate that he does not have funds to pay the filing fee and still “afford necessities of life.”” (at 2)

FACTUAL BACKGROUND

Plaintiff alleged that Google and Yahoo had locked him out of his personal email accounts and sought unfettered access to those accounts. In his renewed IFP application, he reported monthly income of \$1,310, rent of \$600, telephone expenses of \$35, variable utility and medical copay expenses, and \$97.39 in a Chase bank account. Although the court found that Plaintiff had not provided an accurate accounting of all monthly expenses, it concluded that his income and bank balance showed he could not pay the filing fee while affording life's necessities.

PROCEDURAL HISTORY

On February 12, 2025, Plaintiff filed a petition for a preliminary injunction concerning access to his email accounts and an application to proceed in forma pauperis. The court denied the initial IFP application on February 19, 2025. Plaintiff then filed a renewed IFP application, which the court granted.

DISPOSITION

other

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Venerable v. Meyers, 500 F.2d 1215, 1216 (9th Cir. 1974)

OPINION

Ashford v. Google, Inc

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 BURK N. ASHFORD, Case No.: 25-cv-0327-BJC-AHG 12 Plaintiff, ORDER GRANTING APPLICATION

13 v. TO TO PROCEED IN FORMA

PAUPERIS [ECF NO. 7]

14 GOOGLE, et al, 15 Defendants. 16 17 18 On February 12, 2025, Plaintiff Burk N. Ashford filed a Petition for Preliminary 19 Injunction alleging Defendants Google and Yahoo have locked him out of his personal 20 email accounts, and he seeks “unfettered access to his email accounts from wherever he 21 may be.” [ECF No. 1.] Plaintiff filed a Motion for Leave to Proceed In Forma Pauperis 22 (“IFP”) which the Court denied on February 19, 2025. [ECF Nos. 3, 4.] 23 Plaintiff has filed a Renewed Application for Leave to Proceed In Forma Pauperis 24 pursuant to 28 U.S.C. § 1915(a). [ECF No. 7.] For the reasons stated below, his motion is 25 GRANTED. 26 Generally, all parties instituting a civil action in this court must pay a filing fee. See 27 28 U.S.C. § 1914(a); Civ.L.R. 4.5(a). However, pursuant to 28 U.S.C. § 1915(a), the court 28 may authorize the commencement, prosecution, or defense of any suit without payment | ||of fees if the plaintiff submits an affidavit, including a statement of all his or her assets, 2 || showing that he or she is unable to pay filing fees or costs. “An affidavit in support of an 3 || IFP application is sufficient where it alleges that the affiant cannot pay the court costs and 4 ||still afford the necessities of life.” Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 5 ||2015). “[A] plaintiff seeking IFP status must allege poverty with some particularity, 6 || definiteness and certainty.” /d. (internal quotation marks omitted). The granting or denial 7 ||of leave to proceed IFP in civil cases is within the sound discretion of the district court. 8 || Venerable v. Meyers, 500 F.2d 1215, 1216 (9th Cir. 1974) (citations omitted). 9 In his application, Plaintiff states that he receives \$1,310 in monthly income from 10 }/“Pension, annuity, or life insurance payments.” [ECF No. 7 at 4.] Plaintiff states his 11 ||monthly expenses include \$600 rent, \$35 telephone, and that his utilities and medical co- 12 ||pays vary. [/d. at 5.] Plaintiff states he has \$97.39 in his Chase account. [/d. at 7.] Although 13 ||he does not provide an accurate accounting of his monthly expenses, Plaintiff’s income 14 || and bank account indicate that he does not have funds to pay the filing fee and still “afford 15 necessities of life.” Escobedo, 787 F.3d at 1234. Accordingly, the Court GRANTS 16 || Plaintiff’s IFP Motion [ECF No. 7.] 17 IT IS SO ORDERED. 18 ||Dated: April 29, 2025 19 20 6 oq Gan CG Lh fu 21 29 Honorable Benjamin J. Cheeks United States District Judge 23 24 25 26 27 28 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28