

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Kinsey v. Pasha

No. 25-cv-01225-BEN-DDL (S.D. Cal. May 16, 2025) · No. 25-cv-01225-BEN-DDL · Decided May 16, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Charles Kinsey’s § 1983 action without prejudice because he neither paid the required civil filing and administrative fee nor properly moved to proceed in forma pauperis. The court granted him 45 days to reopen the case by paying the fee or filing a compliant IFP motion and declaration. The order cautioned that any reopened complaint would remain subject to statutory screening.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Roger T. Benitez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 16, 2025
DOCKET	25-cv-01225-BEN-DDL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se prisoner filed a civil-rights complaint under 42 U.S.C. § 1983 without paying the filing fee or filing a properly supported motion to proceed in forma pauperis.
STANDARD OF REVIEW	The court applied the filing-fee and in-forma-pauperis requirements as a threshold matter; no appellate standard of review was stated.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Charles Kinsey v. Susan Pasha, Hall, California Department of Corrections and Rehabilitation, John Does 1-10

TOPICS

- civil procedure
- prisoners rights
- section 1983
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the civil action should be dismissed when the prisoner neither paid the required filing fee nor filed a properly supported motion to proceed in forma pauperis.
2. Whether prison records submitted on the plaintiff's behalf satisfy the plaintiff's obligation to personally submit the affidavit and certified trust-account statement required by 28 U.S.C. § 1915(a).

HOLDINGS

1. A civil action may not proceed when the plaintiff has neither prepaid the required filing fee nor submitted a properly supported motion to proceed in forma pauperis.
2. Prison trust-account records submitted by the institution do not substitute for the plaintiff's own properly supported motion and affidavit to proceed in forma pauperis.
3. Dismissal for failure to pay the filing fee or properly seek IFP status is without prejudice, with leave to reopen upon compliance within 45 days.

KEY QUOTATIONS

“Therefore, unless Plaintiff either pays the filing fee “upfront,” Bruce, 577 U.S. at 86, or files a properly supported Motion to Proceed IFP that includes the affidavit required by 28 U.S.C. § 1915(a)(1), his case cannot proceed.” (Order at 3)

“DISMISSES this action without prejudice based on Plaintiff’s failure to pay the \$405 civil filing and administrative fee required by 28 U.S.C. § 1914(a), and his failure to properly move to proceed IFP pursuant to 28 U.S.C. § 1915(a);” (Order at 4)

FACTUAL BACKGROUND

Charles Kinsey, an incarcerated and vision-impaired plaintiff at Richard J. Donovan Correctional Facility, alleged that a pavement crack on a path to the prison education facility caught the wheels of his walker, causing him to fall. He further alleged that he was denied adequate medical attention afterward. He filed a § 1983 complaint but neither paid the required filing fee nor filed a properly supported motion to proceed in forma pauperis.

PROCEDURAL HISTORY

Kinsey filed a complaint alleging that prison officials and the California Department of Corrections and Rehabilitation failed to maintain pavement, causing him to fall, and denied him adequate medical attention. He did not pay the \$405 filing and administrative fee and did not personally file the affidavit and certified trust-account records required to proceed in forma pauperis. The district court dismissed the action without prejudice and granted 45 days to reopen by paying the fee or filing a compliant IFP motion.

DISPOSITION

dismissed

CASES CITED

- Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007)
- Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999)
- Bruce v. Samuels, 577 U.S. 82, 84-86 (2016)
- Williams v. Paramo, 775 F.3d 1182, 1185 (9th Cir. 2015)
- Taylor v. Delatoore, 281 F.3d 844, 847 (9th Cir. 2002)
- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Andrews v. King, 398 F.3d 1113, 1119 (9th Cir. 2005)
- Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 214 (1993)
- United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)
- Jefferson v. United States, 277 F.2d 723, 725 (9th Cir. 1960)
- Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc)
- Rhodes v. Robinson, 621 F.3d 1002, 1004 (9th Cir. 2010)