

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Stephen Favis v. Michael Joseph Favis, et al.

Favis v. Favis, No. 2:25-cv-01713 DAD SCR (E.D. Cal. Aug. 4, 2025) · No. 2:25-cv-01713 DAD SCR ·
Decided August 4, 2025

SUMMARY

The United States Magistrate Judge recommends denying Stephen Favis’s motion to proceed in forma pauperis and dismissing the action without prejudice. The recommendation is based on Plaintiff’s failure to provide sufficient financial information, comply with the Court’s order to supplement the application, or pay the filing fee. The findings and recommendations advise the parties of the fourteen-day period for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 4, 2025
DOCKET	2:25-cv-01713 DAD SCR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending denial of Plaintiff's motion to proceed in forma pauperis and dismissal without prejudice after Plaintiff failed to supplement the application or pay the filing fee.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

civil procedure pleadings

PRACTICE AREAS

civil rights in forma pauperis proceedings federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff established eligibility to proceed in forma pauperis.

2. Whether the action should be dismissed without prejudice when Plaintiff failed to adequately support the IFP application, failed to comply with the order to supplement it, and failed to pay the filing fee.

HOLDINGS

1. Plaintiff did not provide sufficient information to establish entitlement to proceed in forma pauperis, and his motion should be denied.
2. Because Plaintiff was not entitled to IFP status and did not pay the filing fee, the action should be dismissed without prejudice.

KEY QUOTATIONS

“However, “a plaintiff seeking IFP status must allege poverty with some particularity, definiteness and certainty.”” (at 1)

“An action may proceed despite failure to pay the filing fees only if the party is granted IFP status.” (at 1)

FACTUAL BACKGROUND

Plaintiff submitted an incomplete and internally inconsistent application to proceed in forma pauperis. The application omitted information about wages, assets, and expenses, and conflicted with financial information Plaintiff had provided in another action filed in February 2025. After being ordered to supplement the application or pay the filing fee, Plaintiff did not respond within more than thirty days and did not pay the fee.

PROCEDURAL HISTORY

Plaintiff filed the complaint and an application to proceed in forma pauperis on June 18, 2025. The court found the application insufficient because it omitted information concerning wages, assets, and expenses and contained inconsistencies with information in another action. The court ordered Plaintiff to supplement the application or pay the filing fee within fourteen days. Plaintiff did neither, leading the magistrate judge to recommend denial of IFP status and dismissal without prejudice, subject to objections and review by the assigned district judge.

DISPOSITION

dismissed

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 STEPHEN FAVIS, No. 2:25-cv-01713 DAD SCR 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 MICHAEL JOSEPH FAVIS, et al., 15 Defendants.

16 Plaintiff is proceeding pro se in this matter, which is referred to the undersigned pursuant 18 to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

The Court now recommends that Plaintiff's 19 motion to proceed in forma pauperis ("IFP") (ECF No. 2) be DENIED and the action be 20 dismissed without prejudice. 21 Plaintiff filed his complaint and the motion for IFP on June 18, 2025. ECF Nos. 1 & 2. 22 On June 27, 2025, this Court issued an Order finding that the motion makes an insufficient 23 showing to proceed in forma pauperis.

ECF No. 4 at 1. The Court noted that the motion for IFP 24 contained several omissions, including information as to wages, assets, and expenses. Further, 25 the information that was reported was inconsistent with information provided in another action 26 that was filed in February 2025. 27 The Court directed Plaintiff to supplement the motion for IFP within 14 days, or 28 alternatively Plaintiff could pay the filing fee within 14 days.

ECF No. 4 at 2. The Order further 1 | provided that if Plaintiff "does not supplement the application or pay the filing fee within 14 days, 2 || the Court will issue findings and recommendations that the motion for IFP be denied and that this 3 || case be dismissed without prejudice." Jd. Now more than 30 days have passed, and Plaintiff has 4 || not responded to the Court's order.

5 As the Ninth Circuit has recognized "one need not be absolutely destitute to obtain 6 || benefits" of the IFP statute. *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015). 7 || However, "a plaintiff seeking IFP status must allege poverty with some particularity, definiteness 8 | and certainty." /d. Plaintiff provided insufficient information in support of his motion and 9 || has not complied with the Court's order to supplement the motion.

Plaintiff has also not paid the 10 | filing fee. Plaintiff's action thus may not proceed. See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 11 | (9th Cir. 1999) ("An action may proceed despite failure to pay the filing fees only if the party is 12 | granted IFP status."). 13 Accordingly, IT IS HEREBY RECOMMENDED that: 14 1. Plaintiff's motion to proceed IFP (ECF No. 2) be DENIED; 15 2.

This action be dismissed without prejudice; and 16 3. The Clerk be directed to enter Judgment and close this case. 17 These findings and recommendations will be submitted to the United States District Judge 18 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 19 | after being served with these findings and recommendations, either party may file written 20 | objections with the court.

The document should be captioned "Objections to Magistrate Judge's 21 | Findings and Recommendations." The parties are advised that failure to file objections within the 22 || specified time may result in waiver of the right to appeal the district court's order. *Martinez v. Yist*, 951

F.2d 1153 (9th Cir. 1991). 24 || Dated: August 4, 2025. °° Link 26 SEAN C. RIORDAN 27
UNITED STATES MAGISTRATE JUDGE 28

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