

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Bonilla v. Plourd

Bonilla · No. 25cv0454-DMS (LR) · Decided March 24, 2025

OPINION

Bonilla v. Plourd

PER CURIAM.

1 2 3 4 5

6 UNITED STATES DISTRICT COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 9 STEVEN WAYNE BONILLA, Case No.: 25cv0454-DMS (LR)

CDCR #J-48500,

10

ORDER DISMISSING CIVIL

Plaintiff,

11 ACTION FOR FAILURE TO PAY

vs. FILING FEE REQUIRED BY

12 28 U.S.C. § 1914(a) 13

JUDGES CHRISTOPHER J. PLOURD,

14

RUTH BERMUDEZ MONTENEGRO

15 and L. BROOKS ANDERHOLT, and JOHN DOE 1-1000 Court Clerks, 16 Defendants. 17 18
19 Plaintiff Steven Wayne Bonilla (“Plaintiff”), proceeding pro se and currently 20 incarcerated at
California Medical Facility, has filed a civil rights Complaint pursuant to 21 42 U.S.C. § 1983.
See ECF No. 1. Plaintiff has not filed a motion to proceed in forma 22 pauperis (“IFP”) in this
matter, nor has he paid the initial civil filing fee required by 28 23 U.S.C. § 1914(a). For the
reasons explained below, the Court DISMISSES the case.

24 I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS

25 All parties instituting any civil action, suit or proceeding in a district court of the 26 United
States, except an application for writ of habeas corpus, must pay a filing fee of 27 \$405, consisting
of a \$350 statutory fee plus an additional administrative fee of \$55, 28 although the administrative
fee does not apply to persons granted leave to proceed IFP.

1 See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee

2 Schedule, § 14 (eff. Dec. 1, 2023)). The action may proceed despite a plaintiff’s failure to 3
prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. 4 § 1915(a).

See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); cf. *Hymas v. 5 U.S. Dep’t of the Interior*, 73 F.4th 763, 765 (9th Cir. 2023) (“[W]here [an] IFP application 6 is denied altogether, Plaintiff’s case [cannot] proceed unless and until the fee[s] [a]re 7 paid.”) 8 The Prison Litigation Reform Act (“PLRA”) also requires prisoners to submit a 9 certified copy of their trust fund account statement, or an institutional equivalent) for the 10 6-month period immediately preceding the filing of the complaint. See 28 U.S.C. 11 § 1915(a)(2); *Andrews v. King*, 398 F.3d 1113, 1119 (9th Cir. 2005). “While the previous 12 version of the IFP statute granted courts the authority to waive fees for any person ‘unable 13 to pay[,]’ . . . the PLRA amended the IFP statute to include a carve-out for prisoners: under 14 the current version of the IFP statute, ‘if a prisoner brings a civil action or files an appeal 15 in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee.’” 16 *Hymas*, 73 F.4th at 767 (quoting 28 U.S.C. § 1915(b)(1)). Section 1915(b) “provides a 17 structured timeline for collecting this fee.” *Id.* (citing 28 U.S.C. § 1915(b)(1)-(2)). 18 Plaintiff has not paid the \$405 filing and administrative fee required. He has also 19 failed to file a properly supported motion to proceed IFP. See *Escobedo*, 787 F.3d at 1234. 20 Therefore, his case cannot continue. See 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

21 II. LEAVE TO PROCEED IFP

22 Even if the Court granted Plaintiff leave to file a motion to proceed IFP, however, it 23 finds he is not entitled to that privilege for the reasons set out below. 24 A. Standard of Review 25 “All persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa Cnty. 26 Sheriff’s Office*, 657 F.3d 890, 892 (9th Cir. 2011). Prisoners, like Plaintiff, however, “face 27 an additional hurdle.” *Id.* In addition to requiring prisoners to “pay the full amount of a 28 filing fee” in installments for the suits or appeals they launch, see *Bruce v. Samuels*, 577 1 U.S. 82, 85 (2016) (citing 28 U.S.C. § 1915(b)(1)–(2), *Williams v. Paramo*, 775 F.3d 1182, 2 1185 (9th Cir. 2015), the PLRA also amended Section 1915 to preclude the privilege to 3 proceed IFP: 4 . . . if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United 5 States that was dismissed on the grounds that it is frivolous, malicious, or fails 6 to state a claim upon which relief can be granted, unless the prisoner is under imminent danger of serious physical injury. 7 8 28 U.S.C. § 1915(g). This subdivision is commonly known as the “PLRA’s ‘three strikes’ 9 rule.” *Washington v. Los Angeles Cnty. Sheriff’s Dep’t*, 833 F.3d 1048, 1054 (9th Cir. 10 2016). “Pursuant to § 1915(g), a prisoner with three strikes or more cannot proceed IFP.” 11 *Andrews*, 398 F.3d at 1116 n.1. The PLRA furthers “the congressional goal of reducing 12 frivolous prisoner litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th 13 Cir. 1997).

14 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner, which 15 were dismissed on the ground that they were frivolous, malicious, or failed to state a claim,” 16 *Andrews*, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the district court 17 styles such dismissal as a denial of the prisoner’s application to file the action without 18 prepayment of

the full filing fee.” *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008). 19 When courts “review a dismissal to determine whether it counts as a strike, the style of the 20 dismissal or the procedural posture is immaterial. Instead, the central question is whether 21 the dismissal ‘rang the PLRA bells of frivolous, malicious, or failure to state a claim.’” *El-Shaddai v. Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738 F.3d 607, 615 (4th Cir. 2013)). 24 Once a prisoner has accumulated three strikes, he is prohibited by Section 1915(g) 25 from pursuing any other IFP action in federal court unless he can show he is facing 26 “imminent danger of serious physical injury.” See 28 U.S.C. § 1915(g); *Cervantes*, 493 F.3d at 1051-52 (noting Section 1915(g)’s exception for IFP complaints which “make[] a 28 plausible allegation that the prisoner faced ‘imminent danger of serious physical injury’ at 1 the time of filing.”) In addition to being “imminent,” that danger must also be “both fairly 2 traceable to unlawful conduct alleged in [the] complaint and redressable by the court.” *Ray v. Lara*, 31 F.4th 692, 701 (9th Cir. 2022). 4 B. Discussion 5 The Court has reviewed Plaintiff’s Complaint and finds it fails to contain any 6 “plausible allegations” to suggest that he “faced ‘imminent danger of serious physical 7 injury’ at the time of filing.” *Cervantes*, 493 F.3d at 1055 (quoting 28 U.S.C. § 1915(g)). 8 Rather, Plaintiff alleges there was no federal grand jury subpoena for the evidence 9 presented in his state criminal trial in the Alameda County Superior Court, and that he is 10 the victim of a malicious, conspiratorial and discriminatory criminal prosecution. See ECF 11 No. 1 at 2-3. He seeks to sue judges and clerks for subsequently refusing to recognize the 12 conviction is “void.” *Id.* at 1-3. 13 Thus, while Plaintiff has not moved to proceed IFP in this case; it would be futile 14 for him to do so. Defendants typically carry the initial burden to produce evidence 15 demonstrating a prisoner is not entitled to proceed IFP. *Andrews*, 398 F.3d at 1119. 16 However, “in some instances, the district court docket may be sufficient to show that [] 17 prior dismissal[s] satisfy[y] at least one on the criteria under § 1915(g)” and therefore count 18 as strikes against him. *Id.* at 1120. That is true here. Based on the dockets of many court 19 proceedings available on PACER,¹ this Court finds that Plaintiff Steven Wayne Bonilla, 20 identified as CDCR #J-48500, while incarcerated, has had dozens of prisoner civil actions 21 or appeals dismissed on the grounds that they were frivolous, malicious, or failed to state 22 a claim upon which relief may be granted. See *In re Steven Bonilla*, 2012 WL 216401, at 23 24 25 1 See *Kim v. Allison*, 87 F.4th 994, 998 n.3 (9th Cir. 2023) (citing *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) 26 (noting courts “may take notice of proceedings in other courts, both within and without the 27 federal judicial system, if those proceedings have a direct relation to matters at issue”); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (noting that courts may take 28 1 *1 (N.D. Cal. Jan. 24, 2012) (noting Plaintiff’s litigation history in the Northern District of 2 California, including the dismissal of 34 pro se civil rights actions between June 1 and 3 October 31, 2011, alone, which were dismissed “because the allegations in [his] complaints 4 d[id] not state a claim for relief under § 1983.”); *id.* at *3 (“The following five actions are 5

DISMISSED without prejudice and without leave to amend for failure to state a claim upon 6 which relief may be granted: Bonilla v. Superior Court of Alameda County, C 11-6306; 7 Bonilla v. Alameda County District Attorney's Office, C 11-6307; Bonilla v. California 8 Supreme Court, C 12-0026; Bonilla v. Cullen, C 12-0027; Bonilla v. California Supreme 9 Court, C 12-0206."); id. at *3 n.1 ("The Court recently informed Plaintiff that, in 10 accordance with 28 U.S.C. § 1915(g), he no longer qualifies to proceed in forma pauperis 11 in any civil rights action.") (citing In re Steven Bonilla, Nos. C11-3180, et seq. CW (PR), 12 Order of Dismissal at 6:23-7:19)). 13 Accordingly, because Plaintiff has, while incarcerated, accumulated far more than 14 the three strikes permitted by Section 1915(g), and he fails to make any plausible allegation 15 that he faced imminent danger of serious physical injury at the time he filed this case, he 16 is not entitled to the privilege of proceeding IFP. See Cervantes, 493 F.3d at 1055; 17 Rodriguez v. Cook, 169 F.3d 1176, 1180 (9th Cir. 1999) (noting that 28 U.S.C. § 1915(g) 18 "does not prevent all prisoners from accessing the courts; it only precludes prisoners with 19 a history of abusing the legal system from continuing to abuse it while enjoying IFP 20 status"). When a prisoner-litigant "has accumulated three prior dismissals on statutorily 21 enumerated grounds[,] . . . a court may not afford him in forma pauperis status with respect 22 to his additional civil actions." Coleman v. Tollefson, 575 U.S. 532, 534 (2015). This is 23 because "court permission to proceed IFP is itself a matter of privilege and not right." 24 Franklin v. Murphy, 745 F.2d 1221, 1231 (9th Cir. 1984).

25 III. CONCLUSION

26 Accordingly, the Court: 27 (1) DISMISSES this case based on Plaintiff's failure to pay the civil filing fee 28 required by 28 U.S.C. § 1914(a); and 1 (2) DIRECTS the Clerk of the Court to enter a final judgment of dismissal, close 2 || the file, and accept no further documents for filing in this matter except a timely Notice of 3 || Appeal, which the Court CERTIFIES would not be taken in good faith pursuant to 28 4 || U.S.C. § 1915(a)(3). 5 IT IS SO ORDERED. 6 || Dated: March 24, 2025 7 am Bh Hon. Dana M. Sabraw United States District Judge 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28