

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Lawton v. Barajas

Lawton · No. 3:25-cv-00927-JES-AHG · Decided April 29, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Dashawn Lawton’s § 1983 action without prejudice for failure to pay the required filing fee or properly move to proceed in forma pauperis. The court granted Plaintiff 45 days to reopen the case by paying the \$405 fee or filing a compliant IFP motion and declaration.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 29, 2025
DOCKET	3:25-cv-00927-JES-AHG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and incarcerated, filed a 42 U.S.C. § 1983 civil rights complaint without paying the filing fee or filing a properly supported motion to proceed in forma pauperis. The district court dismissed the action without prejudice and allowed Plaintiff forty-five days to reopen it by paying the fee or filing a compliant IFP motion.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- civil procedure
- prisoners rights
- civil rights
- pleadings

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether the action could proceed when Plaintiff neither paid the filing fee required by 28 U.S.C. § 1914(a) nor filed a properly supported motion to proceed in forma pauperis under 28 U.S.C. § 1915(a).

2. Whether the action should be dismissed without prejudice with an opportunity to cure the filing-fee or IFP deficiency.

HOLDINGS

1. A prisoner civil action cannot proceed unless the plaintiff either prepays the required filing fee or files a properly supported motion to proceed in forma pauperis containing the affidavit and trust-account documentation required by 28 U.S.C. § 1915(a)(1) and (2).
2. Dismissal without prejudice was appropriate because Plaintiff failed to pay the required civil filing and administrative fee and failed to properly move to proceed in forma pauperis.

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 an affidavit that meets the requirements set out in 28 U.S.C. § 1915(a)(1), his case cannot proceed.” (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);” (at 4)

FACTUAL BACKGROUND

Plaintiff was incarcerated at Richard J. Donovan Correctional Facility and alleged that two correctional officers destroyed his personal property during a September 2024 cell search. He further alleged that the officers later destroyed legal paperwork and harassed his wife during visitation because he complained. The court did not reach the merits of these civil rights allegations because Plaintiff had not paid the filing fee or properly sought IFP status.

PROCEDURAL HISTORY

Dashawn Lawton filed a civil rights complaint against two correctional officers. Although prison records concerning his trust account were submitted, Plaintiff did not pay the required filing fee and did not personally file a motion and affidavit to proceed in forma pauperis. The court dismissed the action without prejudice, granted forty-five days to cure the filing-fee or IFP deficiency, and directed the Clerk to provide the approved IFP form.

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 (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)

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