

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Jose Arteaga v. M. Palmer and R. Buckel

Arteaga · No. 25-cv-03498-AJB-AHG · Decided January 6, 2026

OPINION

Arteaga

PER CURIAM.

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9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 12 JOSE ARTEAGA, Case No.: 25-cv-03498-AJB-AHG

13 CDCR #V-29993,

14 ORDER: Plaintiff,

15 (1) DENYING MOTION TO

16 vs. PROCEED IN FORMA PAUPERIS

17 (Doc. No. 2) AND 18

19 M. PALMER, R. BUCKEL, (2) DISMISSING CIVIL ACTION

20 Defendants. WITHOUT PREJUDICE FOR

21 FAILURE TO PAY FILING FEES

22 REQUIRED BY 28 U.S.C. § 1914(a)

23 24 Jose Arteaga (“Plaintiff”), a prisoner proceeding pro se, has filed a civil rights 25 complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) In lieu of paying the filing fee 26 required by 28 U.S.C. § 1914(a), Plaintiff filed a Motion to Proceed In Forma Pauperis 27 (“IFP”) pursuant to 28 U.S.C. § 1915(a). (Doc. No. 2.) For the reasons discussed below, 28 the Court denies Plaintiff’s IFP motion and dismisses the action without prejudice.

29 I. IFP MOTION

30 All parties instituting any civil action, suit or proceeding in a district court of the 31 United States, except an application for writ of habeas corpus, must pay a filing fee of 1 \$405. See 28 U.S.C. § 1914(a). The action may proceed despite a failure to pay the entire 2 fee at the time of filing only if the court grants the Plaintiff leave to proceed IFP pursuant 3 to 28 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); 4 cf. *Hymas v. U.S. Dep’t of the Interior*, 73 F.4th 763, 765 (9th Cir. 2023) (“[W]here [an] 5 IFP application is denied altogether, Plaintiff’s case [cannot] proceed unless and until the 6 fee[s] [a]re paid.”). 7 To proceed IFP, prisoners must “submit[] an affidavit that includes a statement of 8 all assets [they] possess[,]” as well as “a “certified copy of the[ir] trust fund account 9 statement (or institutional equivalent) for .

. . the 6-month period immediately preceding 10 the filing of the complaint.” 28 U.S.C. § 1915(a)(1), (2); *Andrews v. King*, 398 F.3d 1113, 11 1119 (9th Cir. 2005). Using this financial information, the court “assess[es] and when funds 12 exist, collect[s], . . . an initial partial filing fee,” which is “calculated based on ‘the average 13 monthly deposits to the prisoner’s account’ or ‘the average monthly balance in the 14 prisoner’s account’ over a 6-month term; the remainder of the fee is to be paid in ‘monthly 15 payments of 20 percent of the preceding month’s income credited to the prisoner’s 16 account.” *Hymas*, 73 F.4th at 767 (quoting 28 U.S.C. § 1915(b)(1)–(2)). In short, while 17 prisoners may qualify to proceed IFP without having to pay the full statutory filing upfront, 18 they remain obligated to pay the full amount due in monthly payments. See *Bruce v. 19 Samuels*, 577 U.S. 82, 84 (2016); 28 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 20 F.3d 844, 847 (9th Cir. 2002). 21 Here, Plaintiff’s IFP Motion is incomplete because he has not included a certified 22 copy of his trust account statement for the 6-month period immediately preceding the filing 23 of his Complaint. See 28 U.S.C. § 1915(a)(2); S.D. Cal. CivLR 3.2. Without a certified 24 25 26 1 In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$55. See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. 27 Fee Schedule, § 14 (eff. Dec. 1, 2023). The additional \$55 administrative fee does not apply to persons granted leave to proceed IFP. Id. 28 1 || trust account statement, the Court is unable to assess whether any initial partial filing fee 2 ||may be required to initiate the prosecution of Plaintiff’s case. See 28 U.S.C. § 1915(b)(1).

3 II. CONCLUSION AND ORDER

4 Accordingly, the Court: 5 (1) DENIES Plaintiff’s Motion to Proceed IFP (Doc. No. 2) and DISMISSES 6 || the action without prejudice. See 28 U.S.C. §§ 1915(a) & 1914(a). 7 (2) GRANTS Plaintiff forty-five (45) days from the date this Order to re-open 8 || his case by either: (a) prepaying the entire \$405 civil filing and administrative fee in one 9 ||lump-sum; or (b) filing a renewed Motion to Proceed IFP, which includes a prison 10 || certificate, signed by a trust accounting official attesting as to his trust account balances 11 || and deposits and/or a certified copy of his Inmate Statement Report for the 6-month period 12 || preceding the filing of his Complaint pursuant to 28 U.S.C. § 1915(a)(2) and S.D. Cal. 13 || CivLR 3.2(b). 14 If Plaintiff chooses not to comply with this Order by either paying the \$405 civil 15 || filing fee and administrative fee in full by or submitting a properly supported IFP Motion 16 || within forty-five (45) days, this case will remain dismissed without prejudice and without 17 || further order of the Court based on Plaintiff’s failure to comply with 28 U.S.C. § 1914(a). 18 (3) DIRECTS to provide Plaintiff with a Court-approved form “Motion and 19 || Declaration in Support of Motion to Proceed In Forma Pauperis.” 20 IT IS SO ORDERED. 21 ||Dated: January 6, 2026 © 22 Hon, Anthony J.Battaglia 23 United States District Judge 24 25 26 27 28