

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Ngaruiya v. Wells Fargo Bank, N.A.

Ngaruiya · No. CV-26-01336-PHX-SHD · Decided April 9, 2026

OPINION

Ngaruiya

PER CURIAM.

1 WO 2 3 4 5

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Josephine Ngaruiya, No. CV-26-01336-PHX-SHD 10 Plaintiff, ORDER 11 v. 12 Wells Fargo
Bank, N.A., 13 Defendant. 14 15 Pending before the Court is Plaintiff Josephine Ngaruiya's
application to proceed 16 In Forma Pauperis ("IFP"), (Doc. 3), and motion to allow electronic
filing, (Doc. 6). For 17 the reasons stated below, Ngaruiya's IFP application will be granted, and
her Complaint, 18 (Doc. 1), will be dismissed with prejudice. Her motion to allow electronic filing
will be 19 denied as moot.

20 I. IFP APPLICATION

21 "There is no formula set forth by statute, regulation, or case law to determine when 22
someone is poor enough to earn IFP status." Escobedo v. Applebees, 787 F.3d 1226, 1235 23 (9th
Cir. 2015). "An affidavit in support of an IFP application is sufficient where it alleges 24 that the
affiant cannot pay the court costs and still afford the necessities of life." Id. at 1234 25 (citing
Adkins v. E.I. Dupont de Nemours & Co., 335 U.S. 331, 339 (1948)). 26 Having reviewed the
application to proceed IFP, (Doc. 3), I find Ngaruiya cannot 27 pay court costs and still afford
necessities. Thus, the motion to proceed IFP will be granted. 28

1 II. SCREENING THE COMPLAINT

2 Because Ngaruiya is proceeding IFP in this case, I must screen her Complaint. 3 A. Legal
Standard 4 Congress provided with respect to in forma pauperis cases that a district court 5 "shall
dismiss the case at any time if the court determines" that the "allegation of poverty is untrue" or
that the "action or appeal" is "frivolous 6 or malicious," "fails to state a claim on which relief may
be granted," or 7 "seeks monetary relief against a defendant who is immune from such relief." 28
U.S.C. § 1915(e)(2). While much of section 1915 outlines how prisoners 8 can file proceedings in
forma pauperis, section 1915(e) applies to all in forma 9 pauperis proceedings, not just those filed
by prisoners. Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000). "It is also clear that section
1915(e) not only 10 permits but requires a district court to dismiss an in forma pauperis complaint
11 that fails to state a claim." Id. Therefore, this court must dismiss an in forma pauperis
complaint if it fails to state a claim or if it is frivolous or malicious. 12 13 Kennedy v. Andrews,

2005 WL 3358205, at *2 (D. Ariz. 2005). 14 “The standard for determining whether a plaintiff has failed to state a claim 15 upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a 16 claim.” *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012); see also 17 *Wilhelm v. Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012) (noting that screening pursuant to § 1915A “incorporates the familiar standard applied in 18 the context of failure to state a claim under Federal Rule of Civil Procedure 19 12(b)(6)”). 20 *Hairston v. Juarez*, 2023 WL 2468967, at *2 (S.D. Cal. 2023). 21 B. Ngaruiya’s Complaint 22 Ngaruiya brings several claims against Defendant Wells Fargo Bank, N.A., 23 principally under Title VII of the Civil Rights Act, arising out of alleged sexual harassment, 24 employment discrimination, pay discrimination, and retaliation. (See Docs. 1, 7.) 25 Ngaruiya has, however, brought these claims before. See *Ngaruiya v. Wells Fargo Bank* 26 et al., No. 2:24-cv-00773-SMM, Doc. 1 at 16 (D. Ariz. April 5, 2024). Indeed, as Ngaruiya 27 acknowledges, (Doc. 1 at 3; Doc. 7 at 1), Judge McNamee dismissed her claims under 28 § 1915(e) with prejudice, declining to grant her further leave to amend, (*id.* at Doc. 25). 1 || And as Judge Tuchi recently held in dismissing yet another case Ngarutya filed, here she 2|| “simply attempts to bring a new case raising the same or substantially similar claims to || those the Court already dismissed without leave to amend,” and “[t]he Court must therefore dismiss [Ngarutya’s] present Complaint.” *Ngaruiya v. Urgent Psychiatric Ctr.*, No. 2:26- || cv-01332-JJT, Doc. 6 at 2 (D. Ariz. February 26, 2026). 6 “A dismissal with prejudice precludes a party from reiterating the same claims in a later case.” *Procopio-Bey v. Arizona*, 2021 WL 2451669, at *1 (D. Ariz. 2021) (citing 8 || *Leon v. IDX Systems Corp.*, 464 F.3d 951, 962 (9th Cir. 2006)). Ngaruiya’s Complaint || raises the same claims asserted in her prior case, which was dismissed with prejudice on January 28, 2026. Her present Complaint will therefore be dismissed. Because any 11 || amendment would be futile, she will not be granted leave to amend. *Bonin v. Calderon*, 12}, 59 F.3d 815, 845 (1995) (‘Futility of amendment can, by itself, justify the denial □□ of... leave to amend.’). 14 Accordingly, 15 IT IS ORDERED granting Ngaruiya’s Application for Leave to Proceed IFP, (Doc. 3). 17 IT IS FURTHER ORDERED dismissing Ngaruiya’s Complaint, (Doc. 1), with prejudice. 19 IT IS FURTHER ORDERED denying the Motion to Allow Electronic Filing, 20 || (Doc. 6), as moot. 21 IT IS FURTHER ORDERED directing the Clerk of Court to enter judgment 22 || accordingly and close this case. 23 Dated this 9th day of April, 2026. 24 26 yf 7 H le Sharad H. Desai United States District Judge 28 _3-