

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Duque v. Davis

No. 2:25-cv-0905 CSK P · No. No. 2:25-cv-0905 CSK P · Decided May 21, 2025

SUMMARY

The court recommends dismissing Jason Allen Duque’s prisoner civil rights action without prejudice because he failed to file the required in forma pauperis affidavit and certified prison trust account statement. The magistrate judge also directs the clerk to assign a district judge and advises that objections may be filed within fourteen days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 21, 2025
DOCKET	No. 2:25-cv-0905 CSK P
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued an order directing assignment of a district judge and findings and recommendations that the action be dismissed without prejudice after plaintiff failed to comply with an order requiring an in forma pauperis affidavit and certified prison trust account statement.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- service of process

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice because plaintiff failed to comply with the court's order to submit in forma pauperis materials and a certified prison trust account statement.

2. Whether service at plaintiff's address of record was effective despite the apparent return of his copy of the order.

HOLDINGS

1. Service of documents at the party's address of record is fully effective under Eastern District of California Local Rule 182(f), even when the document is returned, and the plaintiff bears responsibility for keeping the court informed of a current address.
2. Because plaintiff failed to file the required in forma pauperis affidavit and certified prison trust account statement within the ordered period, dismissal of the action without prejudice was recommended.

KEY QUOTATIONS

"It is the plaintiff's responsibility to keep the court apprised of his current address at all times." (at 1)

"Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective." (at 1)

FACTUAL BACKGROUND

The court previously ordered Jason Allen Duque to submit a completed in forma pauperis affidavit and a certified copy of his prison trust account statement. The thirty-day deadline expired without a response or submission of the required documents. Although a copy of the order appeared to have been returned, the court found that plaintiff had been properly served at his record address.

PROCEDURAL HISTORY

On April 8, 2025, the court ordered plaintiff to file a completed in forma pauperis affidavit and certified prison trust account statement within thirty days and warned that failure to comply could result in dismissal. Plaintiff did not respond or file the required documents. The magistrate judge concluded that plaintiff had been properly served and recommended dismissal without prejudice, subject to objections within fourteen days.

DISPOSITION

other

CASES CITED

- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)