

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Phillis Wheatley Association and Nadia Smalley v. Joel Wohlfeil, et
al.**

No. 25cv1529-BEN (DDL) (S.D. Cal. July 14, 2025) · No. 25cv1529-BEN (DDL) · Decided July 14, 2025

SUMMARY

The United States District Court for the Southern District of California denied the Phillis Wheatley Association's application to proceed in forma pauperis because an association is not entitled to the benefits of 28 U.S.C. § 1915. The court granted Nadia Smalley's application but dismissed the complaint as frivolous because she was attempting to assert claims belonging to a church or association without licensed counsel. The dismissal was without leave to amend, and the clerk was directed to enter judgment and close the case.

OPINION

Phillis Whealley Association v. Wohfeil

PER CURIAM.

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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF CALIFORNIA

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PHILLIS WHEATLEY ASSOCIATION, Case No.: 25cv1529-BEN (DDL)

13 NADIA SMALLEY,

14 Plaintiffs,

15 v. ORDER RE: APPLICATIONS TO

PROCEED IN FORMA PAUPERIS

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PURSUANT TO 28 U.S.C. § 1915(e)

17 JUDGE JOEL WOHLFEIL, et al., AND DISMISSING COMPLAINT

18 Defendants. 19

20 21 The Phillis Wheatley Association, an unincorporated association, and Nadia 22 Smalley, seek to file an action against Judge Joel Wohlfeil, David Gonzalez, County 23 Assessor Division Chief, and Silvergate RSF. The Plaintiffs assert claims under the 24 Religious Land Use and Institutionalized Persons Act (RLUIPA), the First and Fourth 25 Amendments, §123701(d) RTC, California Revenue and Tax Code §214 and 206.1, and 26 R&T Code §501(c)(3). No filing fee

has been paid to the Clerk of Court. Instead, the 27 Plaintiffs have jointly filed an application to proceed in forma pauperis under 28 U.S.C. 28 §1915. The motion is denied. 1 “In enacting the federal in forma pauperis statute, Congress ‘intended to guarantee 2 that no citizen shall be denied an opportunity to commence, prosecute, or defend an 3 action . . . solely because poverty makes it impossible to pay or secure the costs’ of 4 litigation.” *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (emphasis added). The 5 application is presented in the names of both Plaintiffs, however only Nadia Smalley has 6 signed the affidavit in support. The association has not signed the application or a 7 supporting affidavit. Even if it had signed the application and the affidavit, the 8 association would not be entitled to proceed without paying the court filing fee because 9 the association is not a citizen entitled to the benefits of §1915. “Four contextual features 10 indicate that ‘person’ in §1915(a) refers only to individuals.” *Rowland v. California 11 Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201 (1993). Therefore, the 12 application to proceed in forma pauperis is denied as to Plaintiff Phillis Wheatley 13 Association. 14 Plaintiff Smalley has signed an affidavit identifying \$911 that she receives monthly 15 in the form of Social Security Disability Insurance. She also indicates her monthly 16 expenses are \$911 leaving nothing with which to pay the filing fees. Thus, Smalley is 17 granted permission to proceed in forma pauperis. 18 A complaint filed by any person proceeding in forma pauperis pursuant to 28 19 U.S.C. § 1915(a) is subject to a mandatory and sua sponte review and dismissal to the 20 extent it is frivolous, malicious, fails to state a claim upon which relief may be granted, or 21 seeks monetary relief from a defendant immune from such relief. *Lopez v. Smith*, 203 22 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc). “[S]ection 1915(e) not only permits, but 23 requires a district court to dismiss an in forma pauperis complaint that fails to state a 24 claim.” In passing § 1915(e), Congress was well aware that “a litigant whose filing fees 25 and court costs are assumed by the public, unlike a paying litigant, lacks an economic 26 incentive to refrain from filing frivolous, malicious, or repetitive lawsuits.” *Denton v. 27 Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 324 28 (1989)). *Denton* recognized that “the statute’s instruction that an action may be 1 dismissed if the court is ‘satisfied’ that it is frivolous indicates that frivolousness is a 2 decision entrusted to the discretion of the court entertaining the in forma pauperis 3 petition.” *Id.* at 33. 4 In this case, Smalley advances various claims for relief belonging to what she 5 describes as her church.¹ She seeks \$400,000 in money damages and to “grant our 6 church exemption.” Smalley does not indicate whether the church is an informal 7 association or a religious corporation. Regardless, Smalley is not permitted to represent 8 her church in federal court proceedings, as a matter of law. See 28 U.S.C. §1654 (“In all 9 courts of the United States the parties may plead and conduct their own cases personally 10 or by counsel”); *Dr. JKL Ltd. v. HPC IT Educ. Ctr.*, 749 F. Supp. 2d 1038, 1046 11 (N.D. Cal. 2010) (citing *Rowland*, 506 U.S. at 201–202, noting that 28 U.S.C. § 1654 12 does not allow corporations, partnerships, or associations to appear in federal court other 13 than through a licensed attorney)). This limitation is not new. “It has been the law for 14 the better part of two centuries, for example, that a

corporation may appear in the federal 15 courts only through licensed counsel.” Rowland, 506 U.S. at 201-202. “[C]ourts have 16 uniformly held that 28 U.S.C. § 1654, providing that ‘parties may plead and conduct their 17 own cases personally or by counsel,’ does not allow corporations, partnerships, or 18 associations to appear in federal court otherwise than through a licensed attorney.” Id. at 19 202. “Therefore, while pro se litigants can represent themselves, they cannot represent 20 corporations, companies or other artificial entities.” Dr. JKL Ltd., 749 F. Supp. 2d at 21 22 1 For example: Claim A: “Judge Joel Wohlfeil disregarded our church tax exemption”; 23 Claim B: “Our [church’s] submitted exemption was intentionally delayed by the county assessor....” and “Church exemption 23701(d) RTC was not acknowledged by Judge Joel Wohlfeil....”; 24 Claim B1: “The church’s freedom of assembly was violated”; 25 Claim B2: “Purposely disbanded the church without due process”; [no Claim C]; 26 Claim D: “The County Assessor violated our rights as a church”; Claim E: “The County Assessor Division Chief David Gonzalez discriminated [sic] our Federal civil 27 rights as a church”; Claim F: “Our church was discriminated against and our church’s due process was not given”; 28 1 || 1046. Given these circumstances, Smalley’s lawsuit cannot be maintained because she is 2 ||a pro se litigant attempting to assert -- not her own claims -- but claims on behalf of a 3 ||church entity. Therefore, the Court finds Smalley’s Complaint must be dismissed as 4 || frivolous under §1915(e) (2). 5 Conclusion 6 For these reasons, IT IS HEREBY ORDERED that: 7 1. Plaintiff Phillis Wheatley Association’s application to proceed in forma 8 pauperis is DENIED. 9 2. Plaintiff’s Nadia Smalley’s application to proceed in forma pauperis 1s 10 GRANTED. Upon review under §1915(e)(2), Smalley may not represent a 11 church or association. Because Smalley advances only claims belonging to a 12 church or association, the defect cannot be remedied by an amended pleading. 13 Therefore, the Complaint frivolous and is dismissed without leave to amend. 14 See Lopez v. Smith, 203 F.3d 1122, 1127, n.8 (9th Cir. 2000) (“When a case 15 may be classified as frivolous or malicious, there is, by definition, no merit to 16 the underlying action and so no reason to grant leave to amend.”). 17 3. The Clerk of Court shall enter judgment accordingly and close this case.

18 IT IS SO ORDERED. °

19 || DATED: July 14, 2025 0 Ort Roger T. Benitez United States District Judge 21 22 23 24 25 26 27 28