

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Hanh Thi My Do v. Orange County SSA, WPD, et al.

Case No. 25-cv-1112-RSH-MSB · No. 25-cv-1112-RSH-MSB · Decided July 30, 2025

SUMMARY

The United States District Court for the Southern District of California granted Hanh Thi My Do’s renewed motion to proceed in forma pauperis. The court dismissed the amended complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim and for lack of venue, denied leave to amend, denied remaining motions, and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 30, 2025
DOCKET	25-cv-1112-RSH-MSB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff proceeding in forma pauperis filed an amended civil-rights complaint after the court previously dismissed the original complaint with leave to amend. The district court screened the amended complaint under 28 U.S.C. § 1915(e)(2)(B), granted the renewed IFP motion, and dismissed the amended complaint without prejudice and without leave to amend.
STANDARD OF REVIEW	The court conducted sua sponte screening under 28 U.S.C. § 1915(e)(2)(B). The failure-to-state-a-claim standard was the same as the Federal Rule of Civil Procedure 12(b)(6) standard, requiring sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	Hanh Thi My Do v. Orange County SSA, WPD, et al.

TOPICS

- venue
- section 1983
- ada / disability
- pleadings
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

disability discrimination

federal courts

QUESTIONS PRESENTED

1. Whether Plaintiff qualified to proceed in forma pauperis based on the signed financial affidavit.
2. Whether the amended complaint stated a plausible civil claim under 28 U.S.C. § 1915(e)(2)(B), including claims under 42 U.S.C. § 1983 and Title II of the Americans with Disabilities Act.
3. Whether venue was proper in the Southern District of California under 28 U.S.C. § 1391(b).
4. Whether Plaintiff should receive further leave to amend.

HOLDINGS

1. Plaintiff qualified for in forma pauperis status because the renewed motion contained a signed financial affidavit satisfying the court that Plaintiff could not pay the filing fees.
2. The amended complaint failed to state a claim and was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).
3. The amended complaint did not state a plausible Title II ADA discrimination claim against Grand Canyon University.
4. Plaintiff failed to establish venue in the Southern District of California.
5. Further leave to amend was denied because Plaintiff had already received an opportunity to cure the identified defects and further amendment would be futile.

KEY QUOTATIONS

“The standard for determining whether a plaintiff has failed to state a claim upon which relief can be granted under 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure [(“Rule”)] 12(b)(6) standard for failure to state a claim.” (at 2)

“Although the Amended Complaint properly alleges Plaintiff’s disability, it fails to allege non-conclusory facts stating a plausible claim for discrimination on the basis of that disability.” (at 4)

“As far as the Court can discern, the only allegations the Amended Complaint makes in relation to venue is that he is a resident of San Diego, California. This is not sufficient to confer venue.” (at 5)

FACTUAL BACKGROUND

The amended complaint asserted claims under 42 U.S.C. § 1983, the Americans with Disabilities Act, and several state and federal theories based on alleged events involving Orange County courts, prosecutors, jails, police departments, and a university. Plaintiff alleged that proceedings or detention in Orange County involved a wrongful criminal case and harsh pretrial conditions, and that Grand Canyon University changed course grades and discriminated against him based on disability. The court found that the pleading did not provide sufficient nonconclusory facts connecting the named defendants to viable civil claims and did not establish that venue lay in the Southern District of California.

PROCEDURAL HISTORY

Plaintiff filed the action and an initial IFP motion on May 1, 2025. The court denied the initial IFP motion without prejudice because the financial affidavit was unsigned, screened and dismissed the original complaint, and granted leave to amend. Plaintiff then filed a signed renewed IFP motion and an amended complaint. The court granted IFP status but dismissed the amended complaint for failure to state a claim and failure to establish venue in the Southern District of California, denied further leave to amend, denied remaining motions, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Venerable v. Meyers, 500 F.2d 1215, 1216 (9th Cir. 1974)
- Calhoun v. Stahl, 254 F.3d 845, 845 (9th Cir. 2001)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Del Elmer, Zachay v. Metzger, 967 F. Supp. 398, 403 (S.D. Cal. 1997)
- Duvall v. County of Kitsap, 260 F.3d 1124, 1135 (9th Cir. 2001)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Schucker v. Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988)