

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

Jacques v. Dobbs

No. 2:24-cv-00478-DJC-EFB (E.D. Cal. May 21, 2025) · No. 2:24-cv-00478-DJC-EFB · Decided May 22, 2025

OPINION

(PC) Jacques v. Dobbs

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9

10 MICHAEL E. JACQUES, No. 2:24-cv-00478-DJC-EFB (PC)

11 Plaintiff, 12 v. ORDER 13 M. DOBBS, et al., 14 Defendants. 15 16 Plaintiff, a state prisoner
proceeding without counsel, brought this action 17 pursuant to 42 U.S.C. § 1983 on February 15,
2024. (ECF No. 1.) Plaintiff filed an 18 application to proceed in forma pauperis (“IFP”) that same
day. (ECF No. 2.) 19 On March 7, 2025, the Magistrate Judge filed Findings and
Recommendations 20 recommending this case be dismissed with prejudice under 28 U.S.C. §
1915(e)(2)(A) 21 because Plaintiff had misrepresented her finances in her IFP application in bad
faith. 22 (ECF No. 12.) In particular, the Magistrate Judge found that Plaintiff had failed to 23
disclose deposits made into her prison trust account from outside sources yet “stated 24 under
penalty of perjury on her IFP application that she receives no money from any 25 source.” (Id. at
5.) The Findings and Recommendations contained notice to all Parties 26 that any objections were
to be filed within 14 days. (Id.) No timely objections were 27 filed. On April 18, 2025, this Court
adopted the Findings and Recommendations in 28 1 full and dismissed the case with prejudice.
(ECF No. 13.) Judgment was entered on

2 April 21, 2025. (ECF No. 14.)

3 On April 28, 2025, Plaintiff filed a Motion to Vacate the Court’s Order 4 dismissing the case
with prejudice. (ECF No. 15.) Plaintiff explained that she could 5 not file timely objections to the
Findings and Recommendations as she was denied 6 access to her facility’s law library to research
her case and was also denied the ability 7 to purchase stamps or envelopes. (Id.) Plaintiff also filed
belated Objections to the 8 Findings and Recommendations, explaining that any
misrepresentations in her IFP 9 application were not made in bad faith because Plaintiff “owed a
total amount of 10 \$16,884 in restitution payments” and believed any income she received was
eroded 11 by her restitution obligations. (ECF No. 16.) She also stated she had filed prior IFP 12
applications in the same manner without issue. (Id.) 13 The Court will construe Plaintiff’s Motion

to Vacate and accompanying 14 Objections as a Motion for Reconsideration under either Federal Rule of Civil

15 Procedure 59(e) (motion to alter or amend a judgment) or 60(b) (relief from
16 judgment). See Sch. Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). A 17
motion for reconsideration “is treated as a motion to alter or amend judgment under 18 Federal
Rule of Civil Procedure Rule 59(e) if it is filed within ten days of the entry of 19 judgment.
Otherwise it is treated as a Rule 60(b) motion for relief from judgment or 20 order.” Am.
Ironworks & Erectors, Inc. v. N, Am. Constr. Corp., 248 F.3d 892, 898–99 21 (9th Cir. 2001). As
Plaintiff’s Motion to Vacate and Objections were filed within 10 22 days of the entry of judgment,
the Court will analyze them under Rule 59(e). 23 Reconsideration is an extraordinary remedy and,
in the interests of finality and 24 conservation of judicial resources, is used sparingly. Kona
Enterprises, Inc. v. Estate of 25 Bishop, 229 F.3d 877, 890 (9th Cir. 2000). Under Rule 59(e),
“[r]econsideration is 26 appropriate if the district court (1) is presented with newly discovered
evidence, 27 (2) committed clear error or the initial decision was manifestly unjust, or (3) if there
is 28 an intervening change in controlling law.” Sch. Dist. No. 1J, 5 F.3d at 1263. Whether 1 to
grant a motion for reconsideration is within the discretion of the district court. See 2 389 Orange
St. Partners v. Arnold, 179 F.3d 656, 661 (9th Cir. 1999). 3 The Court holds that reconsideration is
warranted here. As Plaintiff explains, 4 she owed significant restitution payments which she
believed negated any income she 5 received from outside sources and was unfamiliar with the
proper method for filling 6 out the IFP application. Given these representations, the Court finds
that there is no 7 clear evidence Plaintiff’s misrepresentations in her IFP application were made in
bad 8 faith. The Court notes that a different Magistrate Judge recently examined Plaintiff’s 9
similarly deficient IFP application in another matter before this Court and came to the 10 same
conclusion, bolstering this Court’s holding. In particular, that Magistrate Judge 11 found that
Plaintiff had made misrepresentations in her application concerning 12 deposits into her prison
trust account, but credited Plaintiff’s explanation that she was 13 unaware of those deposits when
she filed the application, thereby declining to find 14 the misrepresentations were made in bad
faith. See Jacques v. Hearn, 2:23-cv-02714- 15 DJC-SCR (E.D. Cal. Oct. 15, 2024), ECF No. 9
 (“The undersigned will accept plaintiff’s 16 explanation that plaintiff was not aware of the trust
account deposits at issue when 17 [s]he signed the IFP affidavit and constructively filed the
complaint. Accepting 18 plaintiff’s explanation, the undersigned will not recommend that this case
be 19 dismissed for an untrue allegation of poverty.”). 20 Thus, given Plaintiff’s representations in
her Objections, the Court will grant 21 reconsideration and reopen this case. However, for the
reasons stated in the Findings 22 and Recommendations, the Court finds that Plaintiff has made an
inadequate showing 23 of indigency. Accordingly, Plaintiff must pay the court costs in order to
proceed with 24 this case. Plaintiff is cautioned, however, that failure to pay the court costs will
result in 25 dismissal of this action without prejudice. 26 /// 27 /// 28 ///

1 CONCLUSION

2 In accordance with the above, it is HEREBY ORDERED: 3 1. Plaintiff's Motion to Vacate (ECF
No. 15) is GRANTED; 4 2. The Clerk of Court is DIRECTED to reopen this case; 5 3. Within
thirty (30) days of this Order, Plaintiff shall submit the court costs 6 in the amount of \$405 in
order to proceed with this action. Failure to pay 7 this filing fee will result in dismissal of this
action; and 8 4. Should Plaintiff pay the filing fee, this action will be referred back the 9 assigned
Magistrate Judge for all further pretrial proceedings. 10 14 IT IS SO ORDERED. 12 | Dated:
_May 21, 2025 "Daal J CoO □□□□ Hon. Daniel alabretta
13 UNITED STATES DISTRICT JUDGE
14 15 16 DJc4 - Jacques24cv478.MotReconsideration 17 18 19 20 21 22 23 24 25 26 27 28