

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Phonethip R. v. Leland Dudek

Phonethip R. · No. 25-cv-0529-DEB · Decided March 20, 2025

OPINION

Rattanasinh v. Dudek

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 SOUTHERN DISTRICT OF CALIFORNIA

9 10 PHONETHIP R., Case No.: 25-cv-0529-DEB 11 Plaintiff,

ORDER GRANTING PLAINTIFF’S

12 v. APPLICATION TO PROCEED IN

FORMA PAUPERIS AND

13 LELAND DUDEK, ACTING

SCREENING COMPLAINT

COMMISSIONER OF SOCIAL

14

SECURITY,

15 Defendant.

16 [DKT. NOS. 1, 3]

17 18 Before the Court is Plaintiff Phonethip R.’s Application to Proceed in District Court 19
Without Prepaying Fees or Costs (“IFP Application”). Dkt. No. 3.1 20 I. In Forma Pauperis
Application 21 All parties instituting any civil action, suit, or proceeding in a district court of the
22 United States must pay a filing fee. 28 U.S.C. § 1914(a). Courts may authorize the 23
commencement of a suit without prepayment of fees if the plaintiff submits an affidavit, 24
including a statement of all her assets, demonstrating inability to pay the filing fee. 28 25 U.S.C. §
1915(a); see also Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015). 26 27 1 In the
interest of privacy, this Order uses only the first name and the initial of the last 28 1 The affidavit
must “state the facts as to [the] affiant’s poverty with some particularity, 2 definiteness and
certainty.” United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981). 3 An affidavit is
sufficient if it shows the applicant cannot pay the fee “‘and still be able to 4 provide’ [her]self and
dependents ‘with the necessities of life.’” Rowland v. California 5 Men’s Colony, Unit II Men’s
Advisory Council, 506 U.S. 194, 203 (1993) (quoting Adkins 6 v. E.I. DuPont de Nemours & Co.,
335 U.S. 331, 339 (1948)). 7 Plaintiff’s IFP Application establishes Plaintiff is unemployed,

unhoused, and 8 without assets. Dkt. No. 3 at 2–3, 5. She receives \$291 in monthly public assistance. Id. at 9 2. 10 Based on the foregoing, the Court finds Plaintiff has sufficiently shown she cannot 11 pay the filing fee and afford the necessities of life. The Court, therefore, GRANTS 12 Plaintiff’s IFP Application (Dkt. No. 3). 13 II. Screening the Complaint 14 Because Plaintiff is proceeding IFP, her complaint requires pre-answer screening 15 pursuant to 28 U.S.C. § 1915(e)(2)(B) to determine if it is frivolous or malicious, fails to 16 state a claim on which relief may be granted, or seeks monetary relief against a defendant 17 who is immune from such relief. *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2002) (per 18 curiam) (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners [.]” 19 (citations omitted). 20 The Supplemental Rules for Social Security Actions Under 42 U.S.C. § 405(g) 21 (“Supplemental Rules”) require the complaint to include: 22 (A) state that the action is brought under § 405(g); (B) identify the final 23 decision to be reviewed, including any identifying designation provided by the Commissioner with the final decision; (C) state the name and the county 24 of residence of the person for whom benefits are claimed; (D) name the person 25 on whose wage record benefits are claimed; and (E) state the type of benefits claimed. 26 27 Fed. R. Civ. P. Supp. Soc. Sec. R. 2(b)(1)(A)–(E); see also *Vaughn J. v. O’Malley*, No. 28 3:24-cv-1124-VET, 2024 WL 3732480, at *2 (S.D. Cal. Aug. 8, 2024) (“[I]n the context ! of a Social Security action, the Court applies the Federal Rules of Civil Procedure’s 2 Supplemental Rules for Social Security Actions Under 42 U.S.C. § 405(g) .. . to determine 3 || whether the Complaint states a claim for relief.”) (citations omitted). 4 Plaintiff’s complaint states a claim on which relief may be granted: (A) it states the > | action is brought under 42 U.S.C. § 405(g); (B) it identifies the final decision to be 6 reviewed; (C) it provides Plaintiff’s name and states she resides in San Diego County; (D) it 7 identifies Plaintiff as the person on whose wage record benefits are claimed; and (E) it 8 | states Supplemental Security Income as the type of benefits claimed. Dkt. No. 1 at 1-2. 9 There are no indications that Plaintiff’s complaint is frivolous, malicious, or seeks 10 monetary relief against a defendant who is immune from such relief. HI. Conclusion 12 Based on the foregoing, the Court GRANTS Plaintiff’s IFP Application (Dkt. No. 13 3) and FINDS her complaint passes pre-answer screening pursuant to 28 U.S.C. 14 1915(e)(2)(B). 15 In accordance with Rule 3 of the Supplemental Rules for Social Security Actions, 16 Clerk of Court must transmit a Notice of Electronic Filing to the Social Security 17 || Administration’s Office of General Counsel and to the United States Attorney’s Office for 18 |! the Southern District of California in lieu of service of a summons and complaint. 19 IT IS SO ORDERED. 20 Dated: March 20, 2025 □ 21 —nnulGcdyleioc. 2 Honorable Daniel E. Butcher United States Magistrate Judge 23 24 25 26 27 28