

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Adam Jay Stone v. Anderson, et al.

Stone v. Anderson · No. 1:21-cv-01461-SAB (PC); appeal No. 25-3589 · Decided June 11, 2025

OPINION

(PC) Stone v. Pfeiffer

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 ADAM JAY STONE, No. 1:21-cv-01461-SAB (PC)

12 Plaintiff, Appeal No. 25-3589

13 v. ORDER DENYING PLAINTIFF’S MOTION

TO PROCEED IN FORMA PAUPERIS ON

14 ANDERSON, et al., APPEAL, AND DIRECTING CLERK OF

COURT TO SERVE THIS ORDER ON

15 Defendants. NINTH CIRCUIT COURT OF APPEALS 16 (ECF Nos. 317, 318) 17 18

Following a jury trial in this action pursuant to 42 U.S.C § 1983, judgment was entered in 19

favor of Defendants. 20 On May 27, 2025, Plaintiff filed a request and form application to proceed

in forma 21 pauperis on appeal. (ECF Nos. 317, 318.) 22 On June 5, 2025, Plaintiff filed a notice

of appeal, which was assigned case number 25- 23 3589. (ECF Nos. 323, 325.) On this same date,

Plaintiff was directed to pay the \$605.00 filing 24 fee for the appeal. (ECF No. 324.) 25 28 U.S.C.

§ 1915(a)(1) permits a plaintiff to bring a civil action, or appeal therein, 26 “without prepayment

of fees or security thereof” if the plaintiff submits a financial affidavit that 27 demonstrates the

plaintiff’s “is unable to pay such fees or give security therefor.” A prisoner 28 seeking to bring a

civil action must, in addition to filing an affidavit, “submit a certified copy of 1 the trust fund

account statement ... for the 6-month period immediately preceding the filing of the 2 complaint ...

obtained from the appropriate official of each prison at which the prisoner is or was 3 confined.”

28 U.S.C. § 1915(a)(2).

4 Rule 24 of the Federal Rules of Appellate Procedure provides in relevant part:

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(1) Motion in the District Court. Except as stated in Rule 24(a)(3), a party to a district-

6 court action who desires to appeal in forma pauperis must file a motion in the district court. The

party must attach an affidavit that: 7 (A) shows in the detail prescribed by Form 4 of the Appendix

of Forms the party's 8 inability to pay or to give security for fees and costs; 9 (B) claims an entitlement to redress; and 10 (C) states the issues that the party intends to present on appeal. 11 Fed. R. App. P. 24(a)(1). 12 Plaintiff has filed an application declaring that, due to his poverty, he is unable to pre-pay 13 the full amount of fees and costs for the appellate proceedings. Plaintiff attached a copy his 14 inmate statement report from Kern Valley State Prison.1 (ECF No. 318.) The statement provides 15 the activity in Plaintiff's inmate trust account from November 22, 2024 to May 22, 2025, and 16 reflects that Plaintiff currently has an available sum of \$4,631.18 on account to his credit at Kern 17 Valley State Prison. Thus, the available balance in Plaintiff's account reflects that he can pay the 18 \$605.00 filing fee for the appellate action. 19 Based on the foregoing, the information that Plaintiff has provided to the Court reflects 20 that he is financially able to pre-pay the entire filing fee to commence this action. Although the 21 Ninth Circuit Court of Appeals has held that "the filing fee ... should not take the prisoner's last 22 dollar," *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995), in these circumstances, Plaintiff 23 has sufficient funds to pre-pay the \$605.00 filing fee with money left over. Therefore, Plaintiff's 24 motion to proceed in forma pauperis on appeal must be denied. Accordingly, Plaintiff's motion 25 to proceed in forma pauperis on appeal shall be denied, and the appellate fee of \$605.00 remains 26 27 1 Plaintiff's motion to proceed in forma pauperis in this Court was also denied because he had sufficient funds, and the \$405.00 filing fee was paid in full. (ECF No. 11.) 28 1 | due." 2 Accordingly, it is HEREBY ORDERED that: 3 1. Plaintiff's motion to proceed in forma pauperis on appeal is DENIED; 4 2. Plaintiff shall pay the \$605.00 filing fee for the appellate action; and 5 3. The Clerk of Court is directed to serve a copy of this order on the United States 6 Court of Appeals, pursuant to Federal Rule of Appellate Procedure 24(a)(4), Case

7 No. 25-3589.

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9 IT IS SO ORDERED. FA. ee

10 | Dated: _ June 11, 2025

STANLEY A. BOONE

11 United States Magistrate Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 2 Plaintiff may also file a motion to proceed in forma pauperis in the court of appeal within 30 days after the notice 28 | prescribed in Rule 24(a)(4). Fed. R. App. P. 24(a)(5).