

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Foust v. Ahadzia

Foust · No. No. 24-cv-00950 DC SCR P · Decided June 9, 2025

SUMMARY

The magistrate judge recommends dismissing the incarcerated plaintiff’s 42 U.S.C. § 1983 action without prejudice for failure to pay the filing fee and failure to comply with a court order. The recommendation follows the denial of in forma pauperis status under the three-strikes provision of 28 U.S.C. § 1915(g), the plaintiff’s failure to pay within the prescribed period, and his submission of nonresponsive filings.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 9, 2025
DOCKET	No. 24-cv-00950 DC SCR P
DISPOSITION	remanded
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a prisoner's § 1983 action.
STANDARD OF REVIEW	The recommendation applied the five-factor dismissal framework governing a court's inherent authority to dismiss for failure to prosecute or comply with court orders.
PRECEDENTIAL VALUE	nonprecedential findings and recommendations; no final disposition shown

TOPICS

- civil procedure
- prisoners rights
- section 1983
- sanctions

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- in forma pauperis proceedings
- dismissal for failure to comply with court order

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to pay the filing fee after denial of in forma pauperis status.
2. Whether dismissal was appropriate because plaintiff failed to comply with the district judge's order and related court instructions.

HOLDINGS

1. The magistrate judge recommended dismissal without prejudice because plaintiff failed to pay the filing fee within the time ordered and failed to comply with the court's instructions.

KEY QUOTATIONS

“brought an action on three or more prior occasions that count as strikes pursuant to 28 U.S.C. § 1915(g)”
(at 1)

“failure to pay the filing fees and for failure to comply with the court’s order” (at 1)

“the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” (at 1)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding pro se in a civil-rights action under 42 U.S.C. § 1983. After his request to proceed in forma pauperis was denied under the three-strikes rule because he had brought three or more qualifying prior actions and had not plausibly alleged imminent danger of serious physical injury, he was ordered to pay the filing fee within thirty days. He did not pay the fee and instead filed nonresponsive documents, despite prior instructions and warnings that noncompliance would result in dismissal.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights action and sought leave to proceed in forma pauperis. The magistrate judge previously recommended denial of in forma pauperis status under the Prison Litigation Reform Act's three-strikes provision, and District Judge Coggins adopted that recommendation on April 14, 2025, directing plaintiff to pay the filing fee within thirty days and warning that failure to do so would result in dismissal. Plaintiff did not pay the filing fee and instead submitted nonresponsive materials, so the magistrate judge recommended dismissal without prejudice for failure to pay and failure to comply with a court order.

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand instructions. The document recommends dismissal without prejudice; the recommendation remains subject to review and adoption by the assigned district judge.

CASES CITED

- Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Foust v. Ahadzia

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 CARL FOUST, No. 24-cv-00950 DC SCR P 12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 AHMAD AHADZIA, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. § 18 1983. The matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and 19 Local Rule 302. 20 On January 15, 2025, the undersigned issued findings and recommendations that 21 plaintiff's request to proceed in forma pauperis be denied. (ECF No. 64 at 5.) The undersigned 22 determined that plaintiff "brought an action on three or more prior occasions that count as strikes 23 pursuant to 28 U.S.C. § 1915(g)," a statute that includes a "three strikes rule" to prevent 24 incarcerated people from repeatedly filing meritless lawsuits, and did not plausibly allege he 25 faced imminent danger of serious physical injury. (Id. at 2-4.) District Judge Coggins adopted 26 the findings and recommendations in full on April 14, 2025, and permitted plaintiff thirty days to 27 pay the filing fee. (ECF No. 67.) The order advised that plaintiff's failure to pay the filing fee 28 within the time provided will result in dismissal of this action. (Id. at 6.)] More than thirty days have passed, and plaintiff has not paid the filing fees. !_ Accordingly, 2 || the undersigned recommends that the action be dismissed for failure to pay the filing fees and 3 || failure to comply with a court order. See Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995) 4 | (affirming dismissal for failure to pay partial filing fee under IFP statute); Local Rule 110 (failure 5 || to comply with court orders). 6 In recommending this action be dismissed, the court has considered "(1) the public's 7 || interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the 8 | risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their 9 || merits; and (5) the availability of less drastic alternatives." Ferdik v. Bonzelet, 963 F.2d 1258, 10 | 1260-61 (9th Cir. 1992) (citation omitted). The court finds dismissal appropriate here where 11 | plaintiff has received multiple extensions of time to pay the filing fees and has been warned by 12 | the district judge that his failure to do so will result in dismissal. 13 Accordingly, IT IS HEREBY

RECOMMENDED that the action be dismissed without 14 | prejudice for failure to pay the filing fees and for failure to comply with the court's order. 15 These findings and recommendations are submitted to the United States District Judge 16 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days 17 | after being served with these findings and recommendations, plaintiff may file written objections 18 | with the court. Such a document should be captioned "Objections to Magistrate Judges Findings 19 | and Recommendations." Plaintiff is advised that failure to file objections within the specified 20 || time may waive the right to appeal the District Court's order. *Martinez v. YIst*, 951 F.2d 1153 21 | (9th Cir. 1991). 22 || DATED: June 6, 2025 mk 23

SEAN C. RIORDAN

24 UNITED STATES MAGISTRATE JUDGE

25 | 1 plaintiff did submit nonresponsive filings consisting of various prison grievances documents, medical records, and filings from his other civil lawsuits. (See ECF Nos. 68, 69, 70.) These filings also support a recommendation of dismissal for failure to comply with court orders, as the 27 || undersigned had previously instructed plaintiff to pay the filing fee instead of filing repetitious motions and nonresponsive documents. (See ECF No. 64 at 5-6 (issuing filing restriction during 28 | pendency of district judge's review of findings and recommendations on IFP denial).)