

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

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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.

OPINION

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. Ylst*, 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).)