

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PRECEDENTIAL VALUE	nonprecedential findings and recommendations; no final disposition shown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)

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