

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Darryl Cox v. Cresco Capital, Inc.; et al.

Cox · No. 2:25-cv-02022-CDS-DJA · Decided December 3, 2025

OPINION

Cox

PER CURIAM.

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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

4 * * * 5 Darryl Cox, Case No. 2:25-cv-02022-CDS-DJA 6 Plaintiff, 7 Order v. 8 Cresco Capital,
Inc.; et al, 9 Defendants. 10 11 Pro se Plaintiff Darryl Cox filed an application to proceed in forma
pauperis. (ECF No. 12 1). However, Plaintiff’s application is missing certain information and
contains certain 13 contradictory answers. The Court thus denies Plaintiff’s application without
prejudice. 14 I. Discussion.

15 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action “without prepayment of
16 fees or security therefor” if the plaintiff submits a financial affidavit that demonstrates the 17
plaintiff “is unable to pay such fees or give security therefor.” The Ninth Circuit has recognized 18
that “there is no formula set forth by statute, regulation, or case law to determine when someone
19 is poor enough to earn [in forma pauperis] status.” *Escobedo v. Applebees*, 787 F.3d 1226,
1235 20 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and
fees, but 21 he must demonstrate that because of his poverty he cannot pay those costs and still
provide 22 himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S.
331, 339 23 (1948). 24 The applicant’s affidavit must state the facts regarding the individual’s
poverty “with 25 some particularity, definiteness and certainty.” *United States v. McQuade*, 647
F.2d 938, 940 26 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify
his or her 27 poverty, district courts have the discretion to make a factual inquiry into a plaintiff’s
financial 1 *Fed.Appx.* 578 (9th Cir. 2008) (finding that the district court did not abuse its
discretion by 2 denying the plaintiff’s request to proceed in forma pauperis because he “failed to
verify his 3 poverty adequately”). “Such affidavit must include a complete statement of the
plaintiff’s 4 personal assets.” *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB
(BLM), 2016 5 U.S. Dist. LEXIS 192145, at *1 (S.D. Cal. June 9, 2016). Misrepresentation of
assets is sufficient 6 grounds for denying an in forma pauperis application. Cf. *Kennedy v.*
Huibregtse, 831 F.3d 441, 7 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after
litigant misrepresented assets on 8 in forma pauperis application). 9 Plaintiff’s application is

missing certain information and contains certain contradictory 10 answers. In response to question 2, Plaintiff states that he receives income from SNAP and 11 Medicaid benefits, but does not list the amounts he receives. Plaintiff also leaves questions 2 and 12 3 blank, which asks for his and his spouse's employment history. While Plaintiff claims to have 13 been self employed until August of 2025 in his attachment to the application, he does not indicate 14 whether he had employment prior to his self-employment. It also appears that Plaintiff has a 15 spouse given the fact that he filled out the boxes indicating that his spouse receives no money 16 from self-employment in response to question 1 and provides that his spouse has \$2.00 in a bank 17 account in response to question 4. But Plaintiff does not list his spouse's employment history in 18 response to question 3. Plaintiff leaves question 5 (which asks Plaintiff to list his and his 19 spouse's assets) blank without indicating whether any of it applies to him. However, this 20 contradicts Plaintiff's response to question 8 in which he claims to have a motor vehicle insurance 21 of \$378 and a motor vehicle payment of \$592, which indicates that he may have a vehicle that he 22 failed to list in response to question 5. Plaintiff leaves question 6 blank without stating whether 23 or not it applies to him. He also indicates in response to question 8 that he has rent or a mortgage 24 payment, but does not check the boxes to indicate whether real estate taxes or property insurance 25 are included. Plaintiff also fails to list any food or medical expenses in response to question 8. 26 While Plaintiff presumably pays these expenses with the SNAP and Medicaid benefits he 27 references, Plaintiff must still list these expenses so that the Court can accurately assess his 1 Given these issues, the Court cannot determine whether Plaintiff qualifies for in forma 2 pauperis status. The Court will give Plaintiff one opportunity to file a complete in forma 3 pauperis application. The Court further orders that Plaintiff may not respond with a zero or "not 4 applicable" in response to any question without providing an explanation for each of the 5 questions. Plaintiff also may not leave any questions blank. Plaintiff must describe each source 6 of money that he receives, state the amount he received, and what he expects to receive in the 7 future. 8 The Court denies Plaintiff's in forma pauperis application without prejudice. The Court 9 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable 10 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full. 11 Since the Court denies Plaintiff's application, it does not screen the complaint at this time. 12 13 IT IS THEREFORE ORDERED that Plaintiff's application to proceed in forma 14 pauperis (ECF No. 1) is denied without prejudice. 15 IT IS FURTHER ORDERED that Plaintiff has until January 5, 2026, to file an updated 16 application to proceed in forma pauperis as specified in this order or pay the filing fee. Failure to 17 timely comply with this order may result in a recommendation to the district judge that this case 18 be dismissed. 19 IT IS FURTHER ORDERED that the Clerk of Court is kindly directed to send Plaintiff 20 a copy of this order and of the Long Form application to proceed in forma pauperis and its 21 instructions.1 22 23 DATED: December 3, 2025 24 DANIEL J. ALBREGTS

25 UNITED STATES MAGISTRATE JUDGE

26 27 1 This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court->

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