

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Jennifer Rincon v. Genaro James Prieto

Rincon · No. H-26-1157 · Decided February 25, 2026

SUMMARY

The United States Magistrate Judge recommends denying Defendant Genaro James Prieto’s application to proceed in forma pauperis in a removed civil action. The recommendation concludes that Prieto’s financial affidavit omitted sufficient information about income, assets, and expenses to establish that paying court fees would cause undue hardship, and advises that objections be filed within fourteen days.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Peter Bray
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	February 25, 2026
DOCKET	H-26-1157
DISPOSITION	other
PROCEDURAL POSTURE	Defendant, who removed the case to federal court, applied to proceed in forma pauperis. The magistrate judge issued a Memorandum and Recommendation recommending denial of the application.
STANDARD OF REVIEW	An in forma pauperis determination must be based solely on economic criteria and considers whether the litigant can pay court costs without undue financial hardship or deprivation of life's necessities. Untimely objections to a magistrate judge's recommendation generally preclude appellate review of factual findings and legal conclusions, except for plain error.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- costs
- civil procedure

PRACTICE AREAS

civil procedure

in forma pauperis

QUESTIONS PRESENTED

1. Whether Prieto demonstrated that paying federal court costs and fees would cause undue financial hardship or deprive him of the necessities of life.
2. Whether Prieto's incomplete financial affidavit satisfied the requirements for proceeding in forma pauperis.

HOLDINGS

1. A district court's determination whether a party may proceed in forma pauperis is based solely on economic criteria, and the applicant must provide sufficient financial information to show that paying court costs would cause undue financial hardship or deprivation of life's necessities.
2. Prieto's application to proceed in forma pauperis should be denied because his financial affidavit did not provide relevant financial information sufficient to establish undue hardship.

KEY QUOTATIONS

"[A] district court's determination of whether a party may proceed in forma pauperis must be based solely upon economic criteria." (Section 1)

"The question is whether the litigant can afford the costs without undue financial hardship or deprivation of the necessities of life." (Section 1)

"Thus, Prieto's financial affidavit does not show that paying the court costs and fees would cause him undue financial hardship or deprivation of the necessities of life." (Section 1)

FACTUAL BACKGROUND

Prieto reported employment at St. Martin's Episcopal Church but stated that he had received no income from his profession or other sources during the preceding twelve months. He stated that he had a single income supporting a family of seven, but did not report his wages or take-home pay. He also omitted information concerning cash, savings, valuable property, and monthly expenses.

PROCEDURAL HISTORY

Genaro James Prieto removed the case to the Southern District of Texas and filed an application to proceed without prepaying fees or costs. The magistrate judge concluded that Prieto's financial affidavit omitted material information and recommended that the application be denied. The parties were given fourteen days to file objections.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The parties may file written objections to the Memorandum and Recommendation within fourteen days after service.

CASES CITED

- Gibbs v. Jackson, 92 F.4th 566, 569 (5th Cir. 2024)
- Adkins v. E.I. Du Pont De Nemours & Co., Inc., 335 U.S. 331, 337, 339 (1948)
- Martinez v. Tex. Gen. Land Office, No. 25-CV-01745, 2025 WL 3259304, at *1 (W.D. Tex. Nov. 3, 2025)
- Moates v. Biden, No. 22-CV-0626, 2022 WL 3566451, at *1 (W.D. Tex. June 29, 2022)
- Prows v. Kastner, 842 F.2d 138, 140 (5th Cir. 1988)
- Linwood v. Fin. Am., LLC, No. 24-CV-01963, 2024 WL 3682299, at *1 (N.D. Tex. Aug. 6, 2024)
- Thomas v. Arn, 474 U.S. 140, 147-49 (1985)
- Rodriguez v. Bowen, 857 F.2d 275, 276-77 (5th Cir. 1988)

OPINION

UNITED STATES DISTRICT COURT February 25, 2026 Nathan Ochsner, Clerk SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION Jennifer Rincon, § Plaintiff, § § v. § Civil Action H-26-1157 § Genaro James Prieto, § Defendant. § MEMORANDUM AND RECOMMENDATION Pending before the court is Defendant's Application to Proceed in District Court Without Prepaying Fees or Costs. ECF No. 2.

The court recommends that Defendant's motion, ECF No. 2, be DENIED. 1. Legal Standard and Analysis Defendant Genaro James Prieto, who removed this case to federal court, requests to proceed in forma pauperis. ECF No. 2.

The court may grant in forma pauperis status to an indigent litigant "who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). "[A] district court's determination of whether a party may proceed in forma pauperis must be based solely upon economic criteria." Gibbs v. Jackson, 92 F.4th 566, 569 (5th Cir.

2024). "[T]here is no requirement that an individual 'be absolutely destitute' or spend 'the last dollar they have' towards the payment of court costs to enjoy the benefit of in forma pauperis status." Id. (citing Adkins v. E.I. Du Pont De Nemours & Co., Inc., 335 U.S. 331, 337 (1948)).

The question is whether the litigant can afford the costs without undue financial hardship or deprivation of "the necessities of life." Martinez v. Tex. Gen. Land Office, No. 25- CV-01745, 2025 WL 3259304, at *1 (W.D. Tex. Nov. 3, 2025) (citing Adkins, 335 U.S. at 339). Courts consider the litigant's financial resources and expenses and whether those expenses are discretionary or mandatory.

Moates v. Biden, No. 22-CV-0626, 2022 WL 3566451, at *1 (W.D. Tex. June 29, 2022) (citing Prows v. Kastner, 842 F.2d 138, 140 (5th Cir. 1988)), R. & R. adopted, 2022 WL 18110176 (W.D. Tex. Oct. 18, 2022). Courts may look to where the litigant's reported income is in relation to applicable poverty guidelines. Id. Prieto reports that he is employed at St. Martin's Episcopal Church, yet Prieto also states that he has not received any income from his profession or any other sources in the past twelve months.

ECF No. 2 at 1. The only other information Prieto provided is that he has a single income to support a family of seven. Id. at 2. Prieto did not report his wages or take-home pay. Prieto also did not report the amount of money he has in cash or in a savings account, any valuable property that he owns, or any monthly expenses. Prieto did not provide relevant financial information.

Thus, Prieto's financial affidavit does not show that paying the court costs and fees would cause him undue financial hardship or deprivation of "the necessities of life." Cf. Moates, 2022 WL 3566451 at *1; see also Linwood v. Fin. Am., LLC, No. 24-CV- 01963, 2024 WL 3682299, at *1 (N.D. Tex. Aug. 6, 2024).

Accordingly, the court recommends that Prieto's request to proceed in forma pauperis be DENIED. 2. Conclusion The court recommends that Prieto's Application to Proceed in District Court Without Prepaying Fees or Costs, ECF No. 2, be DENIED.

The parties have fourteen days from service of this Memorandum and Recommendation to file written objections. 28 U.S.C. § 686(b)(1); Fed. R. Civ. P. 72. Failure to timely file objections will preclude appellate review of factual findings or legal conclusions, except for plain error. See Thomas v. Arn, 474 U.S. 140, 147-49 (1985); Rodriguez v. Bowen, 857 F.2d 275, 276— 77 (Sth Cir.

1988). Signed at Houston, Texas on February 25, 2026. Peter Bray ☐ United States Magistrate Judge