

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Anthony Lee Allen, Jr. v. Daneile Cuevo, et al.

No. 2:24-cv-02989-EFB (PC) · No. No. 2:24-cv-02989-EFB (PC) · Decided March 27, 2025

SUMMARY

The court found that plaintiff Anthony Lee Allen, Jr. was disqualified from proceeding in forma pauperis under the three-strikes provision of 28 U.S.C. § 1915(g). After plaintiff failed to pay the filing fee or respond to the court's order, the magistrate judge recommended dismissal without prejudice for failure to pay the fee. The order also directed the clerk to randomly assign a district judge and advised the parties regarding objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 27, 2025
DOCKET	No. 2:24-cv-02989-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se under 42 U.S.C. § 1983 failed to pay the filing fee after the court determined that he was barred from proceeding in forma pauperis under the three-strikes provision. The magistrate judge issued findings and recommendations that the action be dismissed without prejudice.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge findings and recommendations; not a final adjudication.
PARTIES	Anthony Lee Allen, Jr. v. Daneile Cuevo, et al.

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- Prisoner civil rights
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice after plaintiff failed to pay the filing fee following a determination that he could not proceed in forma pauperis under 28 U.S.C. § 1915(g).

HOLDINGS

1. The magistrate judge recommended that the action be dismissed without prejudice because plaintiff failed to pay the filing fee or otherwise respond after being found ineligible to proceed in forma pauperis under the three-strikes provision.

KEY QUOTATIONS

“It is further RECOMMENDED that the case be dismissed without prejudice for failure to pay the filing fee.”
(at 1)

“The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a state prisoner who brought this action under 42 U.S.C. § 1983 and sought to proceed in forma pauperis. The court determined that he had three strikes under 28 U.S.C. § 1915(g), ordered him to pay the filing fee within 21 days, and plaintiff did not pay or otherwise respond.

PROCEDURAL HISTORY

On January 23, 2025, the court found that plaintiff was not qualified to proceed in forma pauperis because he had three qualifying strikes under 28 U.S.C. § 1915(g), and ordered him to pay the filing fee within 21 days. Plaintiff neither paid the fee nor responded. The magistrate judge recommended dismissal without prejudice and advised the parties of the procedure and deadline for filing objections.

DISPOSITION

other

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)