

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Demaruea North v. Sgt. Salazar

North v. Salazar · No. 3:25-cv-1750-WQH-LR · Decided July 14, 2025

SUMMARY

The United States District Court for the Southern District of California dismisses Demaruea North’s prisoner civil rights action without prejudice because he neither paid the required \$405 filing and administrative fee nor properly moved to proceed in forma pauperis. The court grants Plaintiff 45 days to pay the fee or submit a properly supported IFP motion with a certified six-month trust account statement.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	William Q. Hayes
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 14, 2025
DOCKET	3:25-cv-1750-WQH-LR
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se prisoner filed a civil-rights action under 42 U.S.C. § 1983 without paying the required filing and administrative fees and without submitting a properly supported motion to proceed in forma pauperis.
PRECEDENTIAL VALUE	unpublished district court order; limited precedential value
PARTIES	Demaruea North v. Sgt. Salazar

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether a prisoner's civil action may proceed when the prisoner has neither prepaid the required filing and administrative fees nor submitted a properly supported motion to proceed in forma pauperis.
2. Whether the court should dismiss the action without prejudice and allow the prisoner time to cure the fee or IFP deficiency.

HOLDINGS

1. A prisoner's civil action cannot proceed when the prisoner has neither prepaid the required filing and administrative fees nor submitted a properly supported motion to proceed in forma pauperis under 28 U.S.C. §§ 1914(a) and 1915(a).
2. The action was properly dismissed without prejudice, with 45 days for Plaintiff to prepay the full \$405 fee or file a properly supported IFP motion.

KEY QUOTATIONS

"Because Plaintiff has neither prepaid the \$405 in filing and administrative fees required to commence this civil action, nor submitted a properly supported IFP Motion, his case cannot yet proceed." (at 1)

"DISMISSES this civil action sua sponte without prejudice based on Plaintiff's failure to pay the \$405 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a)." (at 2)

FACTUAL BACKGROUND

Demaruea North, a prisoner confined at Kern Valley State Prison, filed a pro se civil-rights complaint under 42 U.S.C. § 1983. He did not prepay the \$405 filing and administrative fees and did not submit a properly supported motion to proceed in forma pauperis. The court dismissed the action without prejudice and allowed him 45 days to pay the fee or file an IFP motion with a certified six-month trust-account statement.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 civil-rights complaint in the Southern District of California. The court sua sponte dismissed the action without prejudice because Plaintiff neither prepaid the required \$405 fee nor filed a properly supported IFP motion, while granting 45 days to cure either deficiency.

DISPOSITION

dismissed

CASES CITED

- Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007)
- Bruce v. Samuels, 577 U.S. 82, 84 (2016)
- Taylor v. Delatoore, 281 F.3d 844, 847 (9th Cir. 2002)
- Rhodes v. Robinson, 621 F.3d 1002, 1004 (9th Cir. 2010)

- 25 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc)

OPINION

North v. Salazar

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 DEMARUEA NORTH, Case No.: 3:25-cv-1750-WQH-LR 12

ORDER DISMISSING CIVIL

Plaintiff,

13 ACTION FOR FAILURE TO PAY

vs. FILING FEES REQUIRED BY

14

28 U.S.C. § 1914(a) AND/OR FOR

15 FAILURE TO PROPERLY MOVE

SGT. SALAZAR, TO PROCEED IN FORMA

16

PAUPERIS PURSUANT TO

17 Defendant. 28 U.S.C. § 1915(a)

18 19 20 21 Plaintiff Demaruea North (“Plaintiff”), a prisoner currently confined at Kern Valley 22
State Prison and proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. 23 §
1983. See ECF No. 1.

24 I. FAILURE TO SATISFY FILING FEE REQUIREMENT

25 The action must be dismissed because Plaintiff has not paid the filing fee or moved 26 to
proceed in forma pauperis (“IFP”). All parties instituting any civil action, suit or 27 proceeding in
a district court of the United States, except an application for writ of habeas 28 1 corpus, must pay
a filing fee of \$405. See 28 U.S.C. § 1914(a). A civil action may proceed 2 despite a plaintiff’s
failure to prepay the entire fee only if he is granted leave to proceed in 3 forma pauperis (“IFP”)
pursuant to 28 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 4 F.3d 1047, 1051 (9th Cir. 2007).
However, a prisoner who is granted leave to proceed IFP 5 remains obligated to pay the entire fee
in “increments” or “installments,” *Bruce v. Samuels*, 6 577 U.S. 82, 84 (2016), and regardless of
whether his action is ultimately dismissed. See 7 28 U.S.C. § 1915(b)(1) & (2); *Taylor v.*
Delatoore, 281 F.3d 844, 847 (9th Cir. 2002). 8 Because Plaintiff has neither prepaid the \$405 in
filing and administrative fees 9 required to commence this civil action, nor submitted a properly
supported IFP Motion, his 10 case cannot yet proceed. See 28 U.S.C. § 1914(a); *Andrews*, 493
F.3d at 1051.

11 II. CONCLUSION

12 Accordingly, the Court: 13 (1) DISMISSES this civil action sua sponte without prejudice based on 14 Plaintiff's failure to pay the \$405 civil filing and administrative fee or to submit a Motion 15 to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a). 16 (2) GRANTS Plaintiff forty-five (45) days leave from the date this Order is filed 17 to: (a) prepay the entire \$405 civil filing and administrative fee in full; or (b) complete and 18 file a Motion to Proceed IFP which includes a certified copy of his trust account statement 19 for the 6-month period preceding the filing of his Complaint. See 28 U.S.C. § 1915(a)(2); 20 S.D. Cal. Civ. L.R. 3.2(b).² 21 22 23 1 In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$55. See 28 U.S.C. § 1914(a); Judicial Conference Schedule of Fees, District Court Misc. 24 Fee Schedule, § 14 (eff. Dec. 1, 2023). The additional \$55 administrative fee does not apply to persons granted leave to proceed IFP. Id. 25 26 2 Plaintiff is cautioned that if he chooses to re-open the case by either prepaying the full \$405 civil filing fee, or by submitting a properly supported Motion to Proceed IFP, his Complaint will 27 be subject to an initial review and may be dismissed sua sponte pursuant to 28 U.S.C. § 1915A(b) and/or 28 U.S.C. § 1915(e)(2)(B), regardless of whether he pays the full filing fee at once, or is 28 1 (3) DIRECTS the Clerk of the Court to provide Plaintiff with a Court-approved 2 ||form "Motion and Declaration in Support of Motion to Proceed IFP" for his use and 3 ||convenience. Should Plaintiff neither pay the \$405 filing fee in full nor sufficiently 4 complete and file the attached Motion and Declaration to Proceed IFP within 45 days, this 5 || civil action will remain dismissed without prejudice pursuant to 28 U.S.C. § 1914(a), and 6 || without further Order of the Court. 7 IT IS SO ORDERED. 8 Dated: July 14, 2025 Nitta A. Ma 9 Hon, William Q. Hayes 10 United States District Court 11 12 13 14 15 16 17 18 19 20 21 22 23 24 || 25 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) "not only 26 ||permits but requires" the court to sua sponte dismiss an in forma pauperis complaint that is frivolous, malicious, fails to state a claim, or seeks damages from defendants who are immune); 27 || see also Rhodes v. Robinson, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing similar screening 28 required by 28 U.S.C. § 1915A of all complaints filed by prisoners "seeking redress from a governmental entity or officer or employee of a governmental entity."").