

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

(PS) Allahyar v. Momand

Allahyar v. Momand · No. No. 2:25-cv-0102-TLN-CKD (PS) · Decided April 23, 2025

SUMMARY

The document contains findings and recommendations by a United States magistrate judge in a pro se civil action. It recommends denying the plaintiff’s application to proceed in forma pauperis and dismissing the action without prejudice because the plaintiff failed to pay the filing fee or submit a renewed application after being warned. The parties were advised of the fourteen-day period for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
DECIDED	April 23, 2025
DOCKET	No. 2:25-cv-0102-TLN-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff filed a civil complaint and an application to proceed in forma pauperis. After the magistrate judge found the initial IFP affidavit insufficient and ordered plaintiff either to pay the filing and administrative fees or submit a renewed IFP application, plaintiff took neither action. The magistrate judge issued findings and recommendations recommending denial of IFP status and dismissal without prejudice.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- commercial litigation
- pleadings

PRACTICE AREAS

- civil procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether the plaintiff's application to proceed in forma pauperis should be denied because the affidavit did not establish inability to pay.
2. Whether the action should be dismissed without prejudice for failure to pay the filing fee after the court ordered plaintiff to do so or submit a renewed IFP application.

HOLDINGS

1. The findings and recommendations recommend denying plaintiff's motion to proceed in forma pauperis because plaintiff did not demonstrate inability to pay and did not submit a renewed application after being ordered to do so.
2. The findings and recommendations recommend dismissing the action without prejudice for failure to pay the filing fee after the court ordered plaintiff to pay or renew the IFP application.

KEY QUOTATIONS

“Despite this warning, plaintiff has failed to take action necessary to properly commence this case.” (at 2)

“For the reasons set forth above, IT IS HEREBY RECOMMENDED that plaintiff's motion to proceed in forma pauperis (ECF No. 2) be denied and this action be dismissed without prejudice for failure to pay the filing fee.” (at 2)

FACTUAL BACKGROUND

Rohullah Allahyar, proceeding pro se, filed a civil complaint against Daman Momand concerning an alleged refusal to make a business payment. Allahyar also sought leave to proceed in forma pauperis. The court found that Allahyar reported regular income and no expenses, did not show inability to pay, and then failed to pay the filing and administrative fees or submit a renewed IFP application after being warned of the consequences.

PROCEDURAL HISTORY

Plaintiff filed a complaint and an IFP application. On March 12, 2025, the court found the affidavit did not establish inability to pay and ordered plaintiff to pay the required fees or file a renewed application, warning that failure to do so would result in a recommendation of denial and dismissal. Plaintiff did not comply, and the magistrate judge recommended denial of the IFP application and dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

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