

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)

## OPINION

(PS) Allahyar v. Momand

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ROHULLAH ALLAHYAR, No. 2:25-cv-0102-TLN-CKD (PS)

12 Plaintiff, 13

v. FINDINGS & RECOMMENDATIONS

14

DAMAN MOMAND,

15 Defendant. 16

17 18 Plaintiff Rohullah Allahyar filed a pro se<sup>1</sup> civil complaint naming Daman Momand as the  
19 defendant and appearing to assert a claim related to a refusal to make a business payment. (ECF  
20 No. 1.) Plaintiff also filed an application to proceed in forma pauperis (“IFP”). (ECF No. 2.)

21 On March 12, 2025, the undersigned reviewed plaintiff’s IFP affidavit and found it did not 22  
demonstrate plaintiff was unable to pay the court costs because plaintiff reported a regular source  
23 of income and no expenses. (ECF No. 3.) Accordingly, the court ordered plaintiff to either  
submit 24 the filing fee and administrative fee to the Clerk of the Court or file a renewed  
application to 25 proceed IFP application. (Id.) Plaintiff has not renewed the IFP application, paid  
the filing fee, or 26 otherwise acknowledged the court’s order filed on March 12, 2025. 27 28 1

This matter is before the undersigned pursuant to 28 U.S.C. § 636 and Local Rule 301(c)(21). 1 In  
the court’s order dated March 12, 2025, plaintiff was specifically cautioned that failure 2 || to pay  
the court costs or file a renewed IFP affidavit would result in a recommendation that the 3 ||  
application to proceed in forma pauperis be denied and the present action be dismissed. Despite 4  
|| this warning, plaintiff has failed to take action necessary to properly commence this case. 5 For  
the reasons set forth above, IT IS HEREBY RECOMMENDED that plaintiff’s motion 6 || to  
proceed in forma pauperis (ECF No. 2) be denied and this action be dismissed without 7 ||  
prejudice for failure to pay the filing fee. 8 These findings and recommendations are submitted to  
the United States District Judge 9 || assigned to the case, pursuant to the provisions of 28 U.S.C. §  
636(b)(1). Within fourteen (14) 10 | days after being served with these findings and  
recommendations, plaintiff may file written 11 || objections with the court. Such a document  
should be captioned “Objections to Magistrate 12 || Judge’s Findings and Recommendations.”  
Plaintiff is advised that failure to file objections within 13 || the specified time may waive the right  
to appeal the District Court’s order. Turner v. Duncan, 158 14 || F.3d 449, 455 (9th Cir. 1998);  
Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 15 | Dated: April 22, 2025 / ae □□ / a Ly

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16 CAROLYN K DELANEY

17 UNITED STATES MAGISTRATE JUDGE

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