

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Phillip Charles Aught, Jr. v. Clark County School District, et al.

Aught · No. 2:25-cv-00874-CDS-MDC · Decided December 17, 2025

SUMMARY

The United States District Court for the District of Nevada overruled Phillip Charles Aught, Jr.'s objection to the magistrate judge's report and recommendation. The court adopted the recommendation, dismissed the case without prejudice for failure to comply with orders and demonstrate eligibility for in forma pauperis status, denied the IFP application as moot, and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 17, 2025
DOCKET	2:25-cv-00874-CDS-MDC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff objected to a magistrate judge's report and recommendation recommending dismissal for failure to comply with orders requiring a complete in forma pauperis application or payment of the filing fee.
STANDARD OF REVIEW	The district court conducts a de novo determination of portions of a report and recommendation to which an objection is made under 28 U.S.C. § 636(b)(1). A magistrate judge's order is set aside only if it is clearly erroneous or contrary to law under 28 U.S.C. § 636(b)(1)(A) and Federal Rule of Civil Procedure 72(a).
PRECEDENTIAL VALUE	Unknown; federal district court order with no reporter citation or stated precedential designation.
PARTIES	Phillip Charles Aught, Jr. v. Clark County School District, et al.

TOPICS

- civil procedure
- motions to dismiss
- default

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should reject the magistrate judge's report and recommendation recommending dismissal for failure to comply with court orders.
2. Whether Aught demonstrated eligibility to proceed in forma pauperis under 28 U.S.C. § 1915(a).
3. Whether dismissal without prejudice was warranted based on repeated noncompliance with court orders and failure to timely pay the filing fee or submit a sufficient IFP application.

HOLDINGS

1. Aught failed to demonstrate eligibility for in forma pauperis status because his repeated applications did not adequately establish his inability to pay court fees and did not satisfy the court's instructions requiring complete and detailed answers.
2. Dismissal without prejudice was warranted because Aught failed to comply with repeated orders requiring a complete IFP application or payment of the filing fee.

KEY QUOTATIONS

“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” (at 1)

“To qualify for in forma pauperis status, a civil litigant must demonstrate both that the litigant is unable to pay court fees and that the claims he or she seeks to pursue are not frivolous.” (at 2)

FACTUAL BACKGROUND

Aught sought to proceed in forma pauperis but repeatedly submitted applications that failed to answer all questions and did not explain his claimed lack of income, expenses, property, and debts. After multiple opportunities to cure the deficiencies, he failed to submit a compliant application or pay the filing fee by the court-ordered deadline. He later filed another materially identical application seventeen days late and objected to the recommendation of dismissal.

PROCEDURAL HISTORY

Aught filed an incomplete application to proceed in forma pauperis. The magistrate judge denied successive applications, identified deficiencies, and ordered Aught to file a complete long-form application or pay the filing fee by November 17, 2025. Aught filed another deficient application seventeen days late, and the magistrate judge recommended dismissal. The district court overruled the objection, adopted the report and recommendation, dismissed the action without prejudice, and denied the IFP application as moot.

DISPOSITION

dismissed

CASES CITED

- United States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948)
- UnitedHealth Grp., Inc. v. United Healthcare, Inc., 2014 WL 4635882, at *1 (D. Nev. Sept. 16, 2014)
- Ogunsalu v. Nair, 117 F. App'x 522, 523 (9th Cir. 2004)
- In re Phenylpropanolamine, 460 F.3d 1217, 1226 (9th Cir. 2006)

OPINION

1 2 UNITED STATES DISTRICT COURT DISTRICT OF NEVADA 3 4 Phillip Charles Aught, Jr., Case No. 2:25-cv-00874-CDS-MDC 5 Plaintiff Order Overruling Plaintiff's Objection, Adopting the Magistrate Judge's Report and 6 v. Recommendation and Denying as Moot Plaintiff's IFP Application 7 Clark County School District, et al., 8 Defendants [ECF Nos. 11, 12, 13] 9 10 In commencing this action, plaintiff Phillip Aught, Jr. applied to proceed in forma pauperis 11 (IFP), but his application was denied because it was incomplete.

IFP, ECF No. 2. Specifically, 12 United States Magistrate Judge Maximiliano D. Couvillier advised Aught that his application 13 was incomplete because, among other things, he did not answer all the questions on the 14 application or explain how he lives without any income or bills. Order, ECF No. 8. Judge 15 Couvillier denied Aught's application and ordered him to cure the deficiencies or pay the filing 16 fee.

Id. Aught timely complied by filing a renewed IFP application, but it suffered the same 17 deficiencies. IFP, ECF No. 9. Judge Couvillier denied that application for the same reasons but 18 allowed Aught another opportunity to show that he qualifies for IFP status. Order, ECF No. 10. 19 Aught was ordered to file a complete long form application, or pay the filing fee, by November 17, 20 2025.

Id. at 4. But he failed to do so. On December 1, 2025, Judge Couvillier issued a report and 21 recommendation (R&R) that I dismiss this case for Aught's failure to comply. R&R, ECF No. 11. 22 Seventeen days after the deadline, Aught filed his renewed IFP application. IFP, ECF No. 12. 23 Aught also objects to the R&R's dismissal recommendation, arguing that this "filing occurred 24 before the Report and Recommendation was entered and since he complied, "the basis for 25 dismissal no longer exists." Obj., ECF No. 13.

26 1 I. Legal standard 2 "A judge of the court shall make a de novo determination of those portions of the report 3 or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 4 636(b)(1).

The court may "accept, reject, or modify, in whole or in part, the findings or 5 recommendations made by the magistrate judge." A magistrate judge's order should only be set 6 aside if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). 7 A magistrate judge's order is "clearly erroneous" if the court has "a definite and firm conviction 8 that a mistake

has been committed.” *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). “An order is contrary to law when it fails to apply or misapplies relevant statutes, case law[,] or rules of procedure.” *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D.

Nev. Sept. 11, 2014). II. Discussion The magistrate judge recommends dismissal based on Aught’s failure to timely file an IFP application or pay the filing fee, and failure to comply with his previous orders. ECF No. 11. Aught asks me to decline adopting the R&R, instead seeking another opportunity to cure his filing deficiencies. ECF No. 13.

Aught argues that he filed a long form IFP application curing the deficiencies, *id.*, however, the application does not demonstrate his eligibility to proceed in forma pauperis. Based on my review, it also suffers the same defects identified in Judge Couvillier’s November 6, 2025 order. ECF Nos. 10, 12. Aught again states he makes no money, has no bills, has no property of any kind, and has no debts.

Therefore, there is reason to doubt the accuracy of his IFP application. Further, the most recent submission is essentially identical to his two previous applications. Compare ECF No. 12, with ECF No. 9, and ECF No. 2. Meaning Aught failed to answer all questions with detailed explanations about his income and expenses; provide an explanation on why questions are “not applicable;” and did not explain in detail why he cannot afford the filing fee, how he lives without income or bills, or why there are inconsistencies on the 2 forms.

Aught was given numerous opportunities to demonstrate his inability to afford the filing fee but failed to do so. Moreover, although Aught argues that his IFP application was filed before the R&R, he neglects to address that it was filed seventeen days after the November 17, 2025 deadline. The district court may permit indigent litigants to proceed IFP upon completion of a proper affidavit of indigency.

See 28 U.S.C. § 1915(a). “To qualify for in forma pauperis status, a civil litigant must demonstrate both that the litigant is unable to pay court fees and that the claims he or she seeks to pursue are not frivolous.” *Ogunsalu v. Nair*, 117 F. App’x 522, 523 (9th Cir. 10/20/04) (citing 28 U.S.C. § 1915(a)(1), 1915(e)(2)(B)(i)). Aught fails to do so here. Given Aught’s failure to comply with the court’s orders and failure to demonstrate his eligibility to proceed in forma pauperis, the R&R considered the *In re Phenylpropanolamine* dismissal factors and found they weighed in favor of dismissal.

ECF No. 11 at 2–3 (citing 460 F.3d 1217, 1226 (9th Cir. 2006)). I agree that dismissal is warranted here. So I overrule Aught’s objection and accept the R&R in full. Because Aught’s IFP application does not comply with the statutory criteria of 28 U.S.C. § 1915(a), or Judge Couvillier’s orders, this case is dismissed. III. Conclusion IT IS HEREBY ORDERED that Aught’s objection [ECF No. 13] is overruled, and the magistrate judge’s report and

recommendation [ECF No. 11] is accepted and adopted in its entirety, therefore this case is dismissed without prejudice.

21 IT IS FURTHER ORDERED that Aught's application to proceed in forma pauperis [ECF 22 No. 12] is denied as moot. 23 The Clerk of Court is kindly directed to close this case. No other documents may be filed 24 in this now-closed case. If Aught wishes to pursue his claims, he must file a complaint in a new 25 case and, if he elects to file an IFP application, it must be the long-form and he must answer 26 1|| every question.

Simply answering questions with "N/A" without an explanation is insufficient. 2}| Aught may pay the full civil filing fee to proceed. /, } 3 Dated: December 17, 2025 Un sf States District Judge / 7 8 9 10 ll 12 13 4 15 16 17 18 19 20 21 22 23 24 25 26