

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.

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 9 order is contrary to law when it fails to apply or misapplies relevant statutes, case law[,] or rules 10 of procedure.” *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D.

Nev. Sept. 11 16, 2014). 12 II. Discussion 13 The magistrate judge recommends dismissal based on Aught’s failure to timely file an IFP 14 application or pay the filing fee, and failure to comply with his previous orders. ECF No. 11. 15 Aught asks me to decline adopting the R&R, instead seeking another opportunity to cure his 16 filing deficiencies. ECF No. 13.

17 Aught argues that he filed a long form IFP application curing the deficiencies, *id.*, 18 however, the application does not demonstrate his eligibility to proceed in forma pauperis. Based 19 on my review, it also suffers the same defects identified in Judge Couvillier’s November 6, 2025 20 order. ECF Nos. 10, 12. Aught again states he makes no money, has no bills, has no property of 21 any kind, and has no debts.

Therefore, there is reason to doubt the accuracy of his IFP 22 application. Further, the most recent submission is essentially identical to his two previous 23 applications. Compare ECF No. 12, with ECF No. 9, and ECF No. 2. Meaning Aught failed to 24 answer all questions with detailed explanations about his income and expenses; provide an 25 explanation on why questions are “not applicable;” and did not explain in detail why he cannot 26 1 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 3 fee but failed to do so. Moreover, although Aught argues that his IFP application was filed before 4 the R&R, he neglects to address that it was filed seventeen days after the November 17, 2025 5 deadline. 6 The district court may permit indigent litigants to proceed IFP upon completion of a 7 proper affidavit of indigency.

See 28 U.S.C. § 1915(a). “To qualify for in forma pauperis status, a 8 civil litigant must demonstrate both that the litigant is unable to pay court fees and that the 9 claims he or she seeks to pursue are not frivolous.” *Ogunsalu v. Nair*, 117 F. App’x 522, 523 (9th Cir. 10 2004) (citing 28 U.S.C. § 1915(a)(1), 1915(e)(2)(B)(i)). Aught fails to do so here. 11 Given Aught’s failure to comply with the court’s orders and failure to demonstrate his 12 eligibility to proceed in forma

pauperis, the R&R considered the In re Phenylpropanolamine 13 dismissal factors and found they weighed in favor of dismissal.

ECF No. 11 at 2–3 (citing 460 14 F.3d 1217, 1226 (9th Cir. 2006)). I agree that dismissal is warranted here. So I overrule Aught’s 15 objection and accept the R&R in full. Because Aught’s IFP application does not comply with the 16 statutory criteria of 28 U.S.C. § 1915(a), or Judge Couvillier’s orders, this case is dismissed. 17 III. Conclusion 18 IT IS HEREBY ORDERED that Aught’s objection [ECF No. 13] is overruled, and the 19 magistrate judge’s report and recommendation [ECF No. 11] is accepted and adopted in its 20 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
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