

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Marroquin v. Mr. Gordon

No. 25-cv-1075-RSH-DEB (S.D. Cal. Apr. 30, 2025) · No. 25-cv-1075-RSH-DEB · Decided April 30, 2025

SUMMARY

The United States District Court for the Southern District of California denies Frank Anthony Marroquin’s motion to proceed in forma pauperis without prejudice. The court finds that the application does not adequately state whether Plaintiff has funds in a bank account or explain how he meets his living expenses, and directs him either to pay the \$405 filing fee or submit a corrected application by May 28, 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 30, 2025
DOCKET	25-cv-1075-RSH-DEB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a civil action and moved for leave to proceed in forma pauperis. The district court considered the motion and denied it without prejudice.
PRECEDENTIAL VALUE	Unknown; unpublished district court order

TOPICS

civil procedure

PRACTICE AREAS

Civil procedure In forma pauperis proceedings Filing fees

QUESTIONS PRESENTED

- Whether Plaintiff's application to proceed in forma pauperis sufficiently demonstrated his inability to pay the filing fee under 28 U.S.C. § 1915(a).

HOLDINGS

1. An application to proceed in forma pauperis must provide sufficiently particular and definite financial information to allow the court to determine whether the applicant is unable to pay the required filing fee; Plaintiff's application did not meet that requirement.

KEY QUOTATIONS

“An affidavit in support of an IFP application is sufficient where it alleges that the affiant cannot pay the court costs and still afford the necessities of life[.]” (at 1)

“[A] plaintiff seeking IFP status must allege poverty “with some particularity, definiteness and certainty.” (at 1)

FACTUAL BACKGROUND

Plaintiff submitted an IFP application stating that he had no source of income, cash, or assets. He did not state whether he had money in a bank account or other financial institution. He also reported no monthly expenses while listing EBT in the expense section, leaving the court unable to determine how he was meeting the necessities of life.

PROCEDURAL HISTORY

Frank Anthony Marroquin commenced the action on April 28, 2025, and filed an application to proceed in forma pauperis on April 29, 2025. The district court denied the application without prejudice because the financial information provided was insufficient to determine whether Plaintiff qualified for IFP status, and gave him until May 28, 2025, to pay the filing fee or file a corrected application.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. If Plaintiff wishes to proceed, he must either pay the \$405 filing fee or file a corrected IFP motion addressing the identified deficiencies by May 28, 2025.

CASES CITED

- Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999)
- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)
- Ritchie v. Hill, No. 23-CV-2163 JLS (BLM), 2023 WL 8439564, at *2 (S.D. Cal. Dec. 5, 2023)
- Turner v. City of San Diego, No. 23-CV-29 TWR (NLS), 2023 WL 163492, at *1 (S.D. Cal. Jan. 10, 2023)

OPINION

Marroquin v. Mr. Gordon

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 FRANK ANTHONY MARROQUIN, Case No.: 25-cv-1075-RSH-DEB 12 Plaintiff,

ORDER ON PLAINTIFF'S MOTION

13 v. TO PROCEED IN FORMA

PAUPERIS

14 MR. GORDON, Office of the Director, Department of Motor Vehicles, 15 [ECF No. 2] Defendant. 16 17 18 19 On April 28, 2025, plaintiff Frank Anthony Marroquin, proceeding pro se, 20 commenced this action. ECF No. 1. On April 29, 2025, Plaintiff filed the instant motion 21 for leave to proceed in forma pauperis ("IFP"). ECF No. 2. For the reasons below, the 22 Court denies the motion to proceed IFP without prejudice. 23 All parties instituting a civil action, suit, or proceeding in a district court of the 24 United States, other than a petition for writ of habeas corpus, must pay a filing fee. 28 25 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay the filing fee only 26 if the party is granted leave to proceed in IFP pursuant to 28 U.S.C. § 1915(a)(1). See 27 Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999). A federal court may authorize the 28 commencement of an action without the prepayment of fees if the party submits an 1 || affidavit, including a statement of assets, showing inability to pay the required filing fee. 2 || 28 U.S.C. § 1915(a). "An affidavit in support of an IFP application is sufficient where it 3 || alleges that the affiant cannot pay the court costs and still afford the necessities of life[.]" 4 || Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015). "[A] plaintiff seeking IFP 5 || status must allege poverty "with some particularity, definiteness and certainty." 6 || (quoting United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)). 7 In his IFP application, Plaintiff claims he has no source of income, no cash, and no 8 || assets. ECF No. 2 at 1-3. Plaintiff does not, however, specify whether he has money in any 9 || bank account or other financial institution. /d. at 2. In addition, Plaintiff also claims no 10 || monthly expenses, instead listing EBT (which is not an expense) in this section. /d. at □□□□ 11 || It is unclear to the Court how Plaintiff is securing the necessities of life without any 12 || expenses. See Ritchie v. Hill, No. 23-CV-2163 JLS (BLM), 2023 WL 8439564, at *2 (S.D.

13 Dec. 5, 2023); Turner v. City of San Diego, No. 23-CV-29 TWR (NLS), 2023 WL

14 || 163492, at *1 (S.D. Cal. Jan. 10, 2023). Because Plaintiff does not provide sufficient 15 information to determine whether Plaintiff qualifies for IFP status under 28 U.S.C. § 1915, 16 Court DENIES Plaintiff's IFP motion without prejudice. If Plaintiff wishes to proceed 17 || with this action, Plaintiff must: (1) pay the filing fee of \$405; or (2) file a corrected IFP 18 || motion correcting the above deficiencies by May 28, 2025. 19 IT IS SO ORDERED. 20 || Dated: April 30, 2025 □ 21 Febut [ove 7 Hon. Robert S. Huie United States District Judge 23 24 25 26 27 28

