

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Allahyar v. Momand

No. 2:25-cv-0102-TLN-CKD (PS) (E.D. Cal. Mar. 12, 2025) · No. 2:25-cv-0102-TLN-CKD (PS) · Decided
March 12, 2025

SUMMARY

The United States District Court for the Eastern District of California addresses plaintiff Rohullah Allahyar’s application to proceed in forma pauperis. The court finds that the application does not sufficiently demonstrate inability to pay, grants plaintiff 30 days to pay the filing and administrative fees or submit a complete renewed application, and warns that failure to do so may result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 12, 2025
DOCKET	2:25-cv-0102-TLN-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a civil complaint and an application to proceed in forma pauperis. The court reviewed the application and ordered plaintiff either to pay the filing and administrative fees or submit a renewed, fully completed IFP affidavit.
STANDARD OF REVIEW	The court reviewed the sufficiency of plaintiff's affidavit under 28 U.S.C. § 1915(a) to determine whether it demonstrated inability to pay court costs while still affording the necessities of life.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Rohullah Allahyar v. Daman Momand

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff's IFP affidavit adequately demonstrated an inability to pay the filing and administrative fees while still affording the necessities of life under 28 U.S.C. § 1915(a).
2. What procedural relief should be provided when an IFP application is inadequate.

HOLDINGS

1. An IFP applicant must provide sufficient information to demonstrate inability to pay court costs while still affording the necessities of life; plaintiff's affidavit did not satisfy that requirement because it disclosed \$800 per week in take-home wages and provided no expense information.
2. When an IFP application inadequately demonstrates indigency, the court may give the applicant a specified period to pay the required fees or submit a renewed application containing sufficient information.

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)

“state the facts as to affiant’s poverty with some particularity, definiteness and certainty” (at 1)

FACTUAL BACKGROUND

Plaintiff Rohullah Allahyar filed a civil complaint and sought leave to proceed in forma pauperis. His affidavit stated that he received \$800 per week in take-home pay or wages but provided no further information, leaving the remaining sections of the form blank. Based on the disclosed regular income and absence of reported expenses, the court found that the affidavit did not demonstrate inability to pay the filing and administrative fees.

PROCEDURAL HISTORY

Allahyar initiated the action by filing a complaint and an IFP application. The magistrate judge determined that the application did not adequately establish inability to pay because it reported \$800 per week in take-home wages and supplied no expense information. The court granted plaintiff thirty days to pay the required fees or renew the IFP application, warning that failure to do so would result in a recommendation that IFP status be denied and the action dismissed.

DISPOSITION

other

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)

- Adkins v. E.I. Du Pont de Nemours & Co., Inc., 335 U.S. 331, 339 (1948)
- United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)

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. ORDER 14

DAMAN MOMAND,

15 Defendant. 16

17 18 Plaintiff Rohullah Allahyar proceeds without counsel and seeks to proceed in forma 19
 pauperis. This matter is before the undersigned pursuant to Local Rule 302(c)(21). See 28 U.S.C.
 20 § 636(b)(1). Plaintiff has initiated this action with a civil complaint and an application to
 proceed 21 in forma pauperis (“IFP”). (ECF Nos. 1, 2.) 22 In order to commence a civil action,
 along with the complaint, a plaintiff must either pay 23 the \$350.00 filing fee and the \$55.00
 administrative fee or file an application requesting leave to 24 proceed IFP. See 28 U.S.C. §§
 1914(a), 1915(a). The court may authorize the commencement of 25 an action “without
 prepayment of fees” by an individual who submits an affidavit evidencing an 26 inability to pay
 such fees. 28 U.S.C. § 1915(a). “An affidavit in support of an IFP application is 27 sufficient
 where it alleges that the affiant cannot pay the court costs and still afford the necessities 28 of
 life.” Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015) (citing Adkins v. E.I. Du 1 |
 Pont de Nemours & Co., Inc., 335 U.S. 331, 339 (1948)); see also United States v. McQuade, 647
 2 | F.2d 938, 940 (9th Cir. 1981) (affidavit must “state the facts as to affiant’s poverty with some 3
 || particularity, definiteness and certainty” (internal quotation omitted)). 4 Plaintiff’s affidavit does
 not demonstrate plaintiff was unable to pay the court costs and 5 || still afford the necessities of life
 when plaintiff filed this suit. According to the affidavit, plaintiff 6 || receives \$800 per week in
 take-home pay or wages and plaintiff provided no further information 7 || for the court to consider,
 leaving blank all other sections of the form. (ECF No. 2.) Thus, plaintiff 8 | has indicated a regular
 source of income and no expenses. While § 1915(a) does not require a 9 || litigant to demonstrate
 “absolute destitution,” Adkins, 335 U.S. at 339, the applicant must 10 || nonetheless show inability
 to pay the fees. 28 U.S.C. § 1915(a). Plaintiff has not done so. 11 Because plaintiff does not make
 an adequate showing of indigency for in forma pauperis 12 || status, plaintiff will be granted 30
 days in which to submit the filing fee and administrative fee to 13 || the Clerk of the Court in order
 to proceed with this case. In the alternative, plaintiff may file a 14 || renewed application to

proceed IFP which contains sufficient information to demonstrate plaintiff 15 || could not pay the court costs and still afford the necessities of life. Plaintiff is cautioned that 16 || failure to pay the court costs or file a renewed IFP affidavit will result in a recommendation that 17 || the application to proceed in forma pauperis be denied and the present action be dismissed. 18 For the reasons set forth above, IT IS HEREBY ORDERED that, within thirty (30) days 19 || from the date of this order, plaintiff shall pay the filing fee and administrative fee or file a fully 20 || completed and signed affidavit to proceed without prepayment of fees. 21 | Dated: March 12, 2025 / ae I / dle ae 22 CAROLYNK. DELANEY
23 UNITED STATES MAGISTRATE JUDGE
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