

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

OPINION

(PS) Allahyar v. Momand

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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 24 a5 | Bale2sevo102.ifp 26 27 28