

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kelly v. Oglesby

Kelly · No. 1:25-cv-00042-KES-SAB (PC) · Decided August 4, 2025

SUMMARY

The United States District Court for the Eastern District of California dismissed James Carl Kelly’s action without prejudice after he failed to pay the filing fee despite being ordered to do so following a determination that he had three strikes under 28 U.S.C. § 1915(g). The court directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 4, 2025
DOCKET	1:25-cv-00042-KES-SAB (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the prisoner civil-rights action without prejudice after determining that plaintiff had three strikes under 28 U.S.C. § 1915(g), ordering him to pay the filing fee, and finding that he failed to do so.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	James Carl Kelly v. William Oglesby, et al.

TOPICS

- prisoners rights
- civil procedure
- section 1983

PRACTICE AREAS

- prisoner civil rights
- civil procedure

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice when a prisoner subject to the three-strikes provision fails to pay the filing fee after being ordered to do so.

HOLDINGS

1. A prisoner action subject to the three-strikes provision may not proceed without payment of the required filing fee, and failure to pay after a court order warrants dismissal without prejudice.

KEY QUOTATIONS

“failure to pay the required filing fee as ordered will result in the dismissal of this action without prejudice and without further notice” (at 1)

FACTUAL BACKGROUND

The court determined that James Carl Kelly had accumulated three strikes under 28 U.S.C. § 1915(g). It ordered him to pay the filing fee within 30 days, but he failed to make the required payment.

PROCEDURAL HISTORY

On June 26, 2025, the court determined that plaintiff had accumulated three strikes under 28 U.S.C. § 1915(g) and ordered him to pay the filing fee within 30 days. After plaintiff failed to pay despite the court's warning that nonpayment would result in dismissal, the court dismissed the action without prejudice and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995)
- Saddozai v. Davis, 35 F.4th 705, 709 (9th Cir. 2022)

OPINION

(PC) Kelly v. Oglesby

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 JAMES CARL KELLY, No. 1:25-cv-00042-KES-SAB (PC)

12 Plaintiff, ORDER DISMISSING ACTION WITHOUT

PREJUDICE

13 v. 14 WILLIAM OGLESBY, et al., 15 Defendants. 16 17 On June 26, 2025, the Court
determined that plaintiff had accumulated three strikes 18 under 28 U.S.C. § 1915(g) and ordered
him to pay the filing fee within 30 days to proceed with 19 this action. Doc. 15. Despite the

Court's warning that "failure to pay the required filing fee as 20 ordered will result in the dismissal of this action without prejudice and without further notice," 21 id. at 3, plaintiff has failed to pay the required fee. Without such payment, this action cannot 22 proceed. See 28 U.S.C. § 1914(a); L.R. 121(c); Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 23 1995); Saddozai v. Davis, 35 F.4th 705, 709 (9th Cir. 2022). 24 /// 25 /// 26 /// 27 /// 28 /// 1 Accordingly: 2 1. This action is dismissed without prejudice for plaintiff's failure to pay the filing 3 fee; and 4 2. The Clerk of the Court is directed to close this case. 5 6

7 IT IS SO ORDERED. _

8 Dated: _ August 1, 2025 4h

UNITED STATES DISTRICT JUDGE

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