

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Pina v. Pina

No. 25-CV-386 JLS (SBC) (S.D. Cal. Mar. 24, 2025) · No. 25-CV-386 JLS (SBC) · Decided March 24, 2025

SUMMARY

The United States District Court for the Southern District of California denied without prejudice Marcelina Pina’s application to proceed in forma pauperis because the application contained inconsistencies and insufficient detail regarding her income and expenses. The court also dismissed her complaint without prejudice for failure to prepay the filing fee, granting her 30 days to pay the fee or submit a corrected application.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Janis L. Sammartino
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 24, 2025
DOCKET	25-CV-386 JLS (SBC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a complaint and an application to proceed in forma pauperis. The district court denied the application without prejudice and dismissed the complaint without prejudice for failure to prepay the filing fee.
STANDARD OF REVIEW	The district court exercises discretion in determining whether an applicant has sufficiently demonstrated indigency under 28 U.S.C. § 1915(a)(1).
PRECEDENTIAL VALUE	unknown

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

- civil procedure
- federal courts

QUESTIONS PRESENTED

1. Whether Plaintiff sufficiently demonstrated indigency to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1).
2. Whether the complaint should be dismissed without prejudice for failure to prepay the filing fee required by 28 U.S.C. § 1914(a).

HOLDINGS

1. Plaintiff failed to allege with sufficient certainty that she could not pay the filing fee while affording the necessities of life, so the IFP application was properly denied without prejudice.
2. Because Plaintiff was not granted IFP status and did not prepay the required filing fee, the complaint was dismissed without prejudice under 28 U.S.C. § 1914(a).

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)

“Nevertheless, a plaintiff seeking IFP status must allege poverty ‘with some particularity, definiteness[,] and certainty.’” (at 2)

“Plaintiff is GRANTED an additional thirty (30) days from the date on which this Order is electronically docketed to either (1) pay the entire \$405 statutory and administrative filing fee, or (2) file a new IFP application alleging that she is unable to pay the requisite fee.” (at 3)

FACTUAL BACKGROUND

Plaintiff reported that her monthly income consisted exclusively of \$2,500 in child support, but her complaint alleged that no money had been collected from the child-support debt. Her IFP application listed food and utility expenses, left rent or mortgage information blank, reported zero total monthly income and expenses, and left numerous other questions unanswered. Based on these inconsistencies and omissions, the court could not determine whether Plaintiff was unable to pay the filing fee while meeting her basic necessities.

PROCEDURAL HISTORY

Marcelina Pina filed a civil complaint and an application to proceed without prepaying fees or costs. The district court found inconsistencies and omissions in the financial information provided, denied the IFP application without prejudice, and dismissed the complaint without prejudice under 28 U.S.C. § 1914(a). The court granted Plaintiff thirty days to pay the \$405 filing fee or submit a corrected IFP application.

DISPOSITION

dismissed

CASES CITED

- Cal. Men's Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991), reversed on other grounds by 506 U.S. 194 (1993)
- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Adkins v. E.I. Du Pont de Nemours & Co., 335 U.S. 331, 339 (1948)
- Jefferson v. United States, 277 F.2d 723, 725 (9th Cir. 1960)
- Turner v. City of San Diego, No. 23-CV-29 TWR (NLS), 2023 WL 163492, at *1 (S.D. Cal. Jan. 10, 2023)
- Herta v. Wiblemo, No. 22-CV-1679-BAS-BGS, 2022 WL 17573923, at *2 (S.D. Cal. Nov. 7, 2022)

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