

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dunn v. Unified District School Clovis et al.

Dunn · No. 1:25-cv-00962-JLT-BAM · Decided August 7, 2025

SUMMARY

The United States Magistrate Judge recommends denying Alana Dunn’s application to proceed in forma pauperis because her reported household income, expenses, and assets are inconsistent with a finding of poverty. The recommendation would require Plaintiff to pay the \$405 filing fee, subject to the parties’ fourteen-day period to file objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 7, 2025
DOCKET	1:25-cv-00962-JLT-BAM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a civil action and an application to proceed in forma pauperis. A magistrate judge issued findings and recommendations recommending denial of the application and requiring payment of the filing fee.
STANDARD OF REVIEW	Whether the applicant has demonstrated an inability to pay the filing fee under 28 U.S.C. § 1915(a)(1), an exercise of the district court's discretion.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

civil procedure

PRACTICE AREAS

civil procedure in forma pauperis applications

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated that she was unable to pay the civil filing fee so as to qualify for in forma pauperis status under 28 U.S.C. § 1915(a)(1).
2. Whether Plaintiff should be required to pay the \$405 filing fee to proceed with the action.

HOLDINGS

1. The court recommended denying Plaintiff's application to proceed in forma pauperis because the information in her application did not establish that she was unable to pay the filing fee without becoming destitute.

KEY QUOTATIONS

“The right to proceed without prepayment of fees in a civil case is a privilege and not a right.” (at 1)

“The Court thus finds the information contained in Plaintiff’s application to be inconsistent with a finding of poverty.” (at 2)

FACTUAL BACKGROUND

Plaintiff reported gross wages of \$4,600 per month, take-home pay of \$2,450 biweekly, and additional disability or workers' compensation income totaling \$3,007.90 per month. She claimed four dependents and reported substantial monthly expenses, including housing, food, utilities, vehicle payments, furniture payments, and other expenses. She also identified a 2019 Chevrolet Tahoe as an asset. The court calculated annual household income of \$91,294.80, compared with a 2025 poverty guideline of \$37,650 for a five-person household.

PROCEDURAL HISTORY

Alana Dunn filed the action and a short-form application to proceed in forma pauperis on August 5, 2025. The magistrate judge reviewed the application, concluded that Plaintiff's household income, expenses, and assets were inconsistent with a finding of poverty, and recommended that the application be denied and that Plaintiff pay the \$405 filing fee. The findings and recommendations were submitted to the assigned district judge under 28 U.S.C. § 636(b)(1), with fourteen days allowed for objections.

DISPOSITION

other

CASES CITED

- Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 198 n.2 (1993)
- Franklin v. Murphy, 745 F.2d 1221, 1231 (9th Cir. 1984)
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948)
- Escobedo v. Applebees, 787 F.3d 1226, 1236 (9th Cir. 2015)
- Martinez v. Kristi Kleaners, Inc., 364 F.3d 1305, 1307 n.5 (11th Cir. 2004)

- *Boulas v. United States Postal Serv.*, No. 1:18-cv-01163-LJO-BAM, 2018 WL 6615075, at *1 (E.D. Cal. Nov. 1, 2018)
- *Pogue v. San Diego Superior Ct.*, No. 17-CV-01091-BAS-JMA, 2017 WL 11094959, at *1 (S.D. Cal. May 30, 2017)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014)
- *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

Dunn v. Unified District School Clovis

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 ALANA DUNN, Case No. 1:25-cv-00962-JLT-BAM 12 Plaintiff, FINDINGS AND
RECOMMENDATIONS

RECOMMENDING DENYING

13 v. APPLICATION TO PROCEED IN FORMA

PAUPERIS AND REQUIRING PLAINTIFFS

14 UNIFIED DISTRICT SCHOOL TO PAY THE FILING FEE

CLOVIS et al., 15 (Doc. 2.) Defendants.

16 FOURTEEN DAY DEADLINE

17 Plaintiff Alana Dunn (“Plaintiff”), proceeding pro se, filed this action on August 5, 2025.¹ 18
(Doc. 1.) On August 5, 2025, Plaintiff filed a short form application to proceed in forma 19
pauperis. (Doc. 2.) 20 In order to proceed in court without prepayment of the filing fee, a plaintiff
must submit 21 an affidavit demonstrating they are “unable to pay such fees or give security
therefor.” 28 U.S.C. 22 § 1915(a)(1). The right to proceed without prepayment of fees in a civil
case is a privilege and 23 not a right. *Rowland v. California Men’s Colony, Unit II Men’s Advisory*
Council, 506 U.S. 194, 24 198 n.2 (1993); *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir.
1984) (“permission to proceed 25 26 1 Plaintiff filed a Complaint against Defendants Hugh
Awitrey, Thomas Brockalbank, Mark 27 Castro, Deens L. Combs-Flores, Department of Special
Educational States of CA Sequoia Area Board VIII for Developmental Disabilities, Steven G.
Fogg, Willma Tom Hashimoto, Tiffany 28 Stoker Madison, Yolanda Moore, Clinton Olivier, and
Unified District School Clovis. (Doc. 1.) 1 in forma pauperis is itself a matter of privilege and not
right; denial of in forma pauperis status 2 does not violate the applicant’s right to due process”). A
plaintiff need not be absolutely destitute 3 to proceed in forma pauperis and the application is
sufficient if it states that due to a plaintiff’s 4 poverty, she is unable to pay the costs and still be
able to provide herself and her dependents with 5 the necessities of life. *Adkins v. E.I. DuPont de*
Nemours & Co., 335 U.S. 331, 339 (1948). 6 Whether to grant or deny an application to proceed

without prepayment of fees is an exercise of 7 the district court's discretion. *Escobedo v. Applebees*, 787 F.3d 1226, 1236 (9th Cir. 2015). 8 In assessing whether a certain income level meets the poverty threshold under Section 9 1915(a)(1), courts look to the federal poverty guidelines developed each year by the Department 10 of Health and Human Services. See *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 n.5 11 (11th Cir. 2004); *Boulas v. United States Postal Serv.*, No. 1:18-cv-01163-LJO-BAM, 2018 WL 12 6615075, at *1 (E.D. Cal. Nov. 1, 2018) (applying federal poverty guidelines to in forma pauperis 13 application). 14 In Plaintiff's short form application to proceed in forma pauperis, she proffers that her 15 gross pay or wages are \$4,600.00, with her take-home pay totaling \$2,450.00 biweekly. (Doc. 2 16 at 1.) Plaintiff further proffers that she receives income of \$3,007.90 $((\$718.58 \times 3) + \$852.16)$ 17 from disability or worker's compensation payments, comprised of \$718.58 from SSI benefits for 18 three children each and \$852.16 from SSI benefits for one child. (Id.) Plaintiff does not indicate 19 whether she expects any major changes to her income over the next 12 months. Plaintiff claims 20 four dependents. (Id. at 2.) Plaintiff claims monthly expenses in the amount of: (1) \$2,506.00 for 21 rent and housing expenses; (2) \$295.00 for internet or television fees; (3) \$268.00 for utilities; 22 (4) \$1,375.00 for food; (5) between \$250.00 and \$280.00 for gas; (6) \$620.00 for furniture 23 payments; (7) \$20.00 for credit card payments; (8) \$190.00 for Victoria's Secret; and (9) 24 \$1,114.00 for car payments. (Id. at 1-2.) Plaintiff claims one asset: a 2019 Chevrolet Tahoe (Id. 25 at 2.) Plaintiff lists the 2019 Chevrolet Tahoe, rental payments, medical supplies, medical 26 appointments, and taxes as debts or financial obligations. (Id.) 27 The Court finds the information contained in Plaintiff's application is inconsistent with a 28 finding of poverty based on household income, stated expenses, and stated assets. Plaintiff's 1 annual household income is \$91,294.80 $((\$4,600.00 + \$718.58 + \$718.58 + \$718.58 + \$852.16) \times 2 \text{ } 12)$, which is almost two and a half times the poverty guideline for a five-person household 3 $(\$37,650.00)$. 2025 Poverty Guidelines, [https://aspe.hhs.gov/topics/poverty-economic- 4 mobility/poverty-guidelines](https://aspe.hhs.gov/topics/poverty-economic-4 mobility/poverty-guidelines) (last visited August 7, 2025). District courts tend to reject IFP 5 applications where the applicant can pay the filing fee with acceptable sacrifice to other expenses. 6 *Pogue v. San Diego Superior Ct.*, No. 17-CV-01091-BAS-JMA, 2017 WL 11094959, at *1 (S.D. 7 Cal. May 30, 2017). It does not appear that Plaintiff would be rendered destitute by paying the 8 filing fee of \$405. The Court thus finds the information contained in Plaintiff's application to be 9 inconsistent with a finding of poverty. Because the Court recommends finding Plaintiff fails to 10 establish that she is unable to pay the filing fee, the Court recommends denying her application to 11 proceed in forma pauperis and requiring her to pay the filing fee to proceed in this action. 12 Accordingly, IT IS HEREBY RECOMMENDED that Plaintiff's application to proceed in 13 forma pauperis be DENIED and Plaintiff be ordered to pay the \$405.00 filing fee for this action. 14 These Findings and Recommendations will be submitted to the United States District Judge 15 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen 16 (14) days after being served with these Findings and Recommendations, the parties may file 17 written objections with

the court. The document should be captioned “Objections to Magistrate 18 Judge’s Findings and Recommendations.” Objections, if any, shall not exceed fifteen (15) 19 pages or include exhibits. Exhibits may be referenced by document and page number if 20 already in the record before the Court. Any pages filed in excess of the 15-page limit may 21 not be considered. The parties are advised that failure to file objections within the specified time 22 may result in the waiver of the “right to challenge the magistrate’s factual findings” on 23 appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 24 923 F.2d 1391, 1394 (9th Cir. 1991)). IT IS SO ORDERED. 25 26 Dated: August 7, 2025 /s/ Barbara A. McAuliffe _
UNITED STATES MAGISTRATE JUDGE
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