

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

OPINION

1 2 3 4 5 6 7 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-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 27 28