

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Zaragoza v. Cervantes

Zaragoza · No. 25-cv-1098-MMA-KSC · Decided May 2, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Paul Zaragoza’s 42 U.S.C. § 1983 action without prejudice because he neither paid the required filing and administrative fees nor properly moved to proceed in forma pauperis. The court granted him 45 days to pay the fee or submit a properly supported in forma pauperis motion with a certified six-month trust account statement.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Michael M. Anello
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 2, 2025
DOCKET	25-cv-1098-MMA-KSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a prisoner civil-rights action under 42 U.S.C. § 1983 without prepaying the filing and administrative fees and without submitting a properly supported motion to proceed in forma pauperis. The district court sua sponte dismissed the action without prejudice and granted plaintiff 45 days to pay the fees or submit a compliant IFP motion.
STANDARD OF REVIEW	The court applied the statutory filing-fee and in forma pauperis requirements sua sponte; no appellate standard of review was stated.
PRECEDENTIAL VALUE	unknown
PARTIES	Paul Zaragoza v. G. Cervantes, J. Weber

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

prisoner civil rights

federal civil procedure

in forma pauperis procedure

QUESTIONS PRESENTED

1. Whether the civil-rights action could proceed when plaintiff had not prepaid the required filing and administrative fees or submitted a properly supported motion to proceed in forma pauperis.
2. Whether the action should be dismissed without prejudice while plaintiff was given an opportunity to cure the filing-fee or IFP deficiency.

HOLDINGS

1. A civil action in federal district court cannot proceed when the plaintiff has neither paid the required filing and administrative fees nor submitted a properly supported motion to proceed in forma pauperis.
2. Dismissal without prejudice was appropriate, with 45 days granted for plaintiff to either pay the full \$405 fee or file a properly supported IFP motion.

KEY QUOTATIONS

“All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$405.” (at 1)

“Accordingly, the Court: (1) DISMISSES this civil action sua sponte without prejudice based on Plaintiff’s failure to pay the \$405 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a)” (at 2)

FACTUAL BACKGROUND

Plaintiff Paul Zaragoza, an inmate at Kern Valley State Prison proceeding pro se, filed a civil-rights complaint under 42 U.S.C. § 1983 against G. Cervantes and J. Weber. He alleged that defendants violated his constitutional rights by finding him guilty of a rule violation without supporting evidence. He did not prepay the required \$405 in filing and administrative fees or submit a properly supported IFP motion.

PROCEDURAL HISTORY

Paul Zaragoza filed a § 1983 complaint alleging that defendants found him guilty of a prison rule violation without supporting evidence. He neither prepaid the required \$405 in filing and administrative fees nor submitted a properly supported motion to proceed in forma pauperis. The district court dismissed the action without prejudice, granted 45 days to cure the deficiency, and directed the Clerk to provide the approved IFP form.

DISPOSITION

dismissed

CASES CITED

- *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007)
- *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999)
- *Bruce v. Samuels*, 577 U.S. 82, 84 (2016)
- *Williams v. Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015)
- *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002)
- *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc)
- *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 SOUTHERN DISTRICT OF
CALIFORNIA 9 10 PAUL ZARAGOZA, Case No.: 25-cv-1098-MMA-KSC CDCR # F16090, 11
ORDER DISMISSING CIVIL Plaintiff, 12 ACTION FOR FAILURE TO PAY vs. FILING FEES
REQUIRED BY 13 28 U.S.C. § 1914(a) AND/OR FOR 14 FAILURE TO PROPERLY MOVE G.
CERVANTES, J. WEBER, TO PROCEED IN FORMA 15 PAUPERIS PURSUANT TO 16
Defendants.

28 U.S.C. § 1915(a) 17 18 19 Plaintiff Paul Zaragoza (“Plaintiff”), an inmate currently confined at
Kern Valley 20 State Prison and proceeding pro se, has filed a civil rights complaint pursuant to 42
21 U.S.C. § 1983. See Doc. No. 1. He alleges Defendants violated his constitutional rights 22
when they found him guilty of a rule violation without supporting evidence.

See *id.* at 3. 23 All parties instituting any civil action, suit or proceeding in a district court of the
24 United States, except an application for writ of habeas corpus, must pay a filing fee of 25
\$405.1 See 28 U.S.C. § 1914(a).

The action may proceed despite a plaintiff’s failure to 26 27 1 In addition to the \$350 statutory fee,
civil litigants must pay an additional administrative fee of \$55. 28 1 prepay the entire fee only if
he is granted leave to proceed in forma pauperis (“IFP”) 2 pursuant to 28 U.S.C. § 1915(a). See
Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th 3 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176,
1177 (9th Cir.

1999). However, a prisoner 4 who is granted leave to proceed IFP remains obligated to pay the
entire fee in 5 “increments” or “installments,” *Bruce v. Samuels*, 577 U.S. 82, 84 (2016); *Williams*
v. 6 Paramo, 775 F.3d 1182, 1185 (9th Cir. 2015), and regardless of whether his action is 7
ultimately dismissed. See 28 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 8 844, 847
(9th Cir.

2002). 9 Plaintiff has not prepaid the \$405 in filing and administrative fees required to 10
commence this civil action, nor has he submitted a properly supported Motion to Proceed 11 IFP
pursuant to 28 U.S.C. § 1915(a).

Therefore, his case cannot yet proceed. See 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051. Accordingly, the Court: (1) DISMISSES this civil action sua sponte without prejudice based on Plaintiff's failure to pay the \$405 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a); (2) GRANTS Plaintiff forty-five (45) days leave from the date this Order is filed to: (a) prepay the entire \$405 civil filing and administrative fee in full; or (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust account statement for the 6-month period preceding the filing of his Complaint.

See 28 U.S.C. § 1915(a)(2); S.D. Cal. Civ. L.R. 3.2(b)(2); and 23 (eff. Dec. 1, 2023). The additional \$55 administrative fee does not apply to persons granted leave to proceed IFP. *Id.* 25 Plaintiff is cautioned that if he chooses to re-open the case by either prepaying the full \$405 civil filing fee, or by submitting a properly supported Motion to Proceed IFP, his Complaint will be subject to an initial review and may be dismissed sua sponte pursuant to 28 U.S.C. § 1915A(b) and/or 28 U.S.C. § 1915(e)(2)(B), regardless of whether he pays the full filing fee at once, or is granted IFP status and is obligated to pay the full filing fee in installments.

See *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) “not only permits but requires” the court to sua sponte (3) DIRECTS the Clerk of the Court to provide Plaintiff with a Court-approved form “Motion and Declaration in Support of Motion to Proceed IFP” for his use and convenience. Should Plaintiff neither pay the \$405 filing fee in full nor sufficiently complete and file the attached Motion and Declaration to Proceed IFP within 45 days, this civil action will remain dismissed without prejudice pursuant to 28 U.S.C. § 1914(a), without further Order of the Court.

IT IS SO ORDERED. Dated: May 2, 2025 Wiaths LTUu- / hiphlr HON. MICHAEL M. ANELLO United States District Judge damages from defendants who are immune); see also *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing similar screening required by 28 U.S.C. § 1915A of all complaints filed by prisoners seeking redress from a governmental entity or officer or employee of a governmental entity”).