

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Alfonso S. v. Social Security Administration

Case No. 24-cv-02354-MMP · No. 24-cv-02354-MMP · Decided August 8, 2025

SUMMARY

The United States District Court for the Southern District of California grants Plaintiff Alfonso S.’s renewed motion to proceed in forma pauperis. After screening the amended complaint under 28 U.S.C. §§ 1915(e)(2) and 1915(a), the Court finds that the complaint sufficiently states a claim for review of a Social Security Administration decision and directs substitution of Commissioner Frank Bisignano as Defendant.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Michelle M. Pettit
JURISDICTION	United States District Court for the Southern District of California
DECIDED	August 8, 2025
DOCKET	24-cv-02354-MMP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a pro se action seeking review of a decision concerning Supplemental Security Income and moved to proceed in forma pauperis. After denying the initial in forma pauperis motion and dismissing the initial complaints at screening, the court considered Plaintiff’s renewed motion and amended complaint.
STANDARD OF REVIEW	The court independently screened the amended complaint under 28 U.S.C. § 1915(e)(2) and liberally construed the pro se pleading.
PRECEDENTIAL VALUE	nonprecedential district court order
PARTIES	Alfonso S. v. Social Security Administration

TOPICS

- civil procedure
- administrative law
- judicial review of agency action

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated sufficient indigency to proceed in forma pauperis under 28 U.S.C. § 1915(a).
2. Whether Plaintiff's amended complaint stated a sufficiently clear claim for review of a Supplemental Security Income decision and survived mandatory screening under 28 U.S.C. § 1915(e)(2).
3. Whether the former Social Security Commissioner should be replaced by the current Commissioner under Federal Rule of Civil Procedure 25(d).

HOLDINGS

1. Plaintiff met his burden of demonstrating with particularity, definiteness, and certainty that he could not pay the filing fee while providing for life's necessities; therefore, the court granted leave to proceed in forma pauperis.
2. The amended complaint was sufficient to survive screening under 28 U.S.C. § 1915(e)(2) and § 1915(a).
3. The Clerk was directed to substitute Commissioner Frank Bisignano for former Commissioner Martin O'Malley as the defendant.

KEY QUOTATIONS

“Based on the information currently before the Court, the Court finds Plaintiff has met his burden of demonstrating “with some particularity, definiteness and certainty” he is entitled to IFP status.” (Opinion at 4)

“While Plaintiff's amended complaint is not a model of clarity, courts must liberally construe pro se pleadings.” (Opinion at 5)

FACTUAL BACKGROUND

Plaintiff alleged that his Supplemental Security Income decreased from \$715.72 to zero in May 2017 and identified alleged legal error by the administrative law judge. His renewed in forma pauperis application provided consistent income information, showed only a narrow margin between income and expenses, and indicated no meaningful savings. The amended complaint identified the Commissioner as the proper defendant, specified that the action concerned Plaintiff's own Title XVI Supplemental Security Income entitlement, and supplied the information required for a Social Security action.

PROCEDURAL HISTORY

Plaintiff filed two initial complaints and an in forma pauperis motion on December 16, 2024. The court denied the initial motion and dismissed the complaints for screening deficiencies, directing Plaintiff to submit a renewed in forma pauperis motion and a single amended complaint. Plaintiff complied. The court granted the renewed motion, found the amended complaint sufficient to survive screening, and directed substitution of Commissioner Frank Bisignano for former Commissioner Martin O'Malley.

DISPOSITION

other

CASES CITED

- Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999)
- California Men's Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991), reversed on other grounds by, 506 U.S. 194 (1993)
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339-40 (1948)
- Temple v. Ellerthorpe, 586 F. Supp. 848, 850 (D.R.I. 1984)
- United States v. McQuade, 647 F.2d 938, 940 (9th Cir. 1981)
- Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000)
- Norris v. Kijakazi, No. 23-cv-432-BLM, 2023 WL 2518870, at *2 (S.D. Cal. Mar. 13, 2023)
- Calhoun v. Stahl, 254 F.3d 845, 845 (9th Cir. 2001)
- Giselle N. v. Kijakazi, No. 23-cv-04293-PHK, 2023 WL 6307947, at *1 (N.D. Cal. Sept. 26, 2023)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)

OPINION

1 2 3 4 5 6 7 8 9 UNITED STATES DISTRICT COURT 10 SOUTHERN DISTRICT OF
CALIFORNIA 11 12 ALFONSO S., 1 Case No.: 24-cv-02354-MMP 13 Plaintiff, ORDER: 14 v. 1.
GRANTING PLAINTIFF’S 15 SOCIAL SECURITY MOTION TO PROCEED IN
ADMINISTRATION, 16 FORMA PAUPERIS; AND Defendant. 17 2. SCREENING
COMPLAINT 18 UNDER 28 U.S.C. § 1915(e)(2) AND § 1915(a) 19 20 [ECF No. 7] 21 22 23
On December 16, 2024, Alfonso S. (“Plaintiff”) filed this action pro se.

Plaintiff 24 consented to Magistrate Judge jurisdiction. ECF No. 4. 25 26 27 1 In accordance with
Civil Local Rule 7.1(e)(6)(b), the Court refers to all non-government parties by using their first
name and last initial. 28 1 When Plaintiff initially filed this action, he included two complaints and
a motion to 2 proceed in forma pauperis. ECF Nos. 1, 2.

The Court denied Plaintiff’s initial IFP motion 3 because his IFP application was internally
consistent (and inconsistent with his 4 complaints). ECF No. 6 at 2–3. The Court also dismissed
Plaintiff’s initial complaints for 5 failure to pass screening under 28 U.S.C. § 1915. ECF No. 6 at
4–6.

The Court noted, 6 among other problems, that Plaintiff’s filings listed multiple defendants
throughout, did 7 not identify what laws or rights he claimed were violated, and did not make clear
the basis 8 of his suit—error in the ALJ’s decision, the amount of Plaintiff’s Supplemental

Security 9 Income (SSI) withheld, when SSI withholding commenced, or something else about the 10 SSI recoupment process.

ECF No. 6 at 5. 11 The Court directed Plaintiff to: (1) either pay the filing fee or file a renewed motion 12 to proceed IFP and (2) to file a single amended complaint consistent with the Court's Order. 13 ECF No. 6 at 7–8.

In response to the Court's Order, Plaintiff filed a renewed motion to 14 proceed IFP and an amended complaint. ECF Nos. 7–8. 15 For the reasons set forth below, the Court GRANTS Plaintiff's renewed motion to 16 proceed IFP. ECF No. 7. 17 I. MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS 18 All parties instituting any civil action, suit, or proceeding in a district court of the 19 United States, except an application for writ of habeas corpus, must pay a filing fee of 20 \$405.2 See 28 U.S.C. § 1914(a).

An action may proceed despite the plaintiff's failure to 21 prepay the filing fee only if the plaintiff is granted leave to proceed IFP pursuant to 28 22 U.S.C. § 1915(a). See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). 23 24 25 26 2 In addition to the \$350.00 statutory fee, civil litigants must pay an additional 27 administrative fee of \$55.00.

See 28 U.S.C. § 1914(b) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff. Dec. 1, 2023)). The additional \$55.00 28 1 The determination of indigency falls within the district court's discretion. *California 2 Men's Colony v. Rowland*, 939 F.2d 854, 858 (9th Cir. 1991), reversed on other grounds 3 by, 506 U.S. 194 (1993) ("Section 1915 typically requires the reviewing court to exercise 4 its sound discretion in determining whether the affiant has satisfied the statute's 5 requirement of indigency.").

A party need not be completely destitute to proceed IFP. 6 *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948). To satisfy the 7 requirements of 28 U.S.C. § 1915(a), "an affidavit [of poverty] is sufficient which states 8 that one cannot because of his poverty pay or give security for costs... and still be able to 9 provide himself and dependents with the necessities of life." *Id.* at 339 (internal quotation 10 marks omitted).

At the same time, "the same even-handed care must be employed to assure 11 that federal funds are not squandered to underwrite, at public expense, either frivolous 12 claims or the remonstrances of a suitor who is financially able, in whole or in material part, 13 to pull his own oar." *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984).

The facts 14 as to the affiant's poverty must be stated "with some particularity, definiteness and 15 certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981). 16 Plaintiff's renewed motion to proceed IFP clarifies the Court's questions about his 17 prior application.

First, Plaintiff's statement as to his average monthly income and his 18 income expected next month are now consistent,³ and he indicates he does not expect any 19 major changes to his monthly income during the next twelve months. ECF No. 7 ¶ 1–2, 9. 20 Additionally, Plaintiff's IFP application now accords with his complaint. Plaintiff's 21 amended complaint shows his Social Security income dropped from \$715.72 to \$0.00 in 22 23 24 3 The Court notes there is still an inconsistency between the supplemental documentation 25 Plaintiff attaches to his IFP motion and his claimed Social Security income.

Compare ECF No. 7 at 9 (indicating monthly Social Security income of \$659.65) with ECF No. 7 at 3 26 (indicating monthly Social Security income of \$625.00). Plaintiff's handwritten note 27 "[b]ecause of this year [sic] adjustment" may explain the discrepancy. ECF No. 7 ¶ 1. Regardless, the Court finds this potential discrepancy negligible for purposes of 28 1 May 2017, and Plaintiff explains he had not intended to imply in his initial complaint he 2 was currently receiving \$715.72 less \$118.29 in withholding.

ECF No. 7 at 1, 9. 3 Armed with this clarifying information, the Court can assess Plaintiff's IFP status. 4 Plaintiff's income only outweighs his expenses by a narrow margin, and Plaintiff does not 5 have any meaningful savings. ECF No. 7 at 3, 5–6. Based on the information currently 6 before the Court, the Court finds Plaintiff has met his burden of demonstrating "with some 7 particularity, definiteness and certainty" he is entitled to IFP status.

See *McQuade*, 647 8 F.2d at 940. Thus, the Court GRANTS Plaintiff's motion. 9 II. SUA SPONTE SCREENING UNDER 28 U.S.C. § 1915(e)(2) AND § 1915(a) 10 Complaints filed by any person proceeding IFP pursuant to 28 U.S.C. § 1915(a) are 11 subject to a mandatory sua sponte screening by the Court. *Lopez v. Smith*, 203 F.3d 1122, 12 1127 (9th Cir. 2000); *Norris v. Kijakazi*, No. 23-cv-432-BLM, 2023 WL 2518870, at *2 13 (S.D.

Cal. Mar. 13, 2023). A complaint should be dismissed sua sponte if it is (1) "frivolous 14 or malicious;" (2) "fails to state a claim on which relief may be granted;" or (3) "seeks 15 monetary relief against a defendant who is immune from such relief." See 28 U.S.C. § 16 1915(e)(2); *Lopez*, 203 F.3d at 1126. Complaints in social security cases are not exempt 17 from this screening requirement.

See *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) 18 ("[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners."); *Giselle N. 19 v. Kijakazi*, No. 23-cv-04293-PHK, 2023 WL 6307947, at *1 (N.D. Cal. Sept. 26, 2023). 20 Plaintiff has filed a single amended complaint, as directed by the Court, which 21 corrects deficiencies in his previous complaint and complies with Fed.

R. Civ. P. Supp. 22 Soc. Sec. R. 2(b)(1). ECF No. 8. In his amended complaint, Plaintiff sues the 23 Commissioner of the Social Security Administration,⁴ a proper party, for review of a 24

decision regarding Supplemental Security Income under Title XVI of the Social Security 25 26 27
4 Plaintiff sued Martin O'Malley as Commissioner. Though Martin O'Malley is no longer
Commissioner, Commissioner Frank Bisignano will be substituted under Fed.

R. Civ. P. 28 1 || Act. ECF No. 8 at 3, 4. Plaintiff has identified what he perceives as legal error by
the ALJ. 2 ||ECF No. 8 at 7-8. Plaintiff's amended complaint therefore resolves the Court's prior 3
||concerns about ambiguity as to what sort of action Plaintiff is trying to bring and against 4
||whom. Additionally, Plaintiff's amended complaint provides his name and county of 5 ||residence
and specifies his suit concerns his own entitlement to Supplemental Security 6 || Income.

ECF No. 8 at 4, 8, 18. 7 While Plaintiff's amended complaint is not a model of clarity, courts must
liberally 8 ||construe pro se pleadings. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citing *Estelle v.*
9 || *Gamble*, 429 U.S. 97, 106 (1976)).

After reviewing Plaintiff's amended complaint pursuant 10 its sua sponte screening, the Court
finds Plaintiff's amended complaint sufficient to 11 survive a § 1915(a) screening. 12
CONCLUSION 13 For the foregoing reasons, the Court GRANTS Plaintiffs renewed motion to 14
|| proceed in forma pauperis. ECF No. 7. 15 The Court hereby DIRECTS the Clerk to substitute
Commissioner Frank Bisignano 16 ||as Defendant under Fed.

R. Civ. P. 25(d). 17 IT IS SO ORDERED. 18 || Dated: August 8, 2025 Wy bale [tt str 19 HON.
MICHELLE M. PETTIT United States Magistrate Judge 20 21 22 23 24 25 26 27 28