

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

OPINION

Serrano v. Social Security Administration

PER CURIAM.

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 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

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