

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

E.J. McElroy v. Sgt. Guzman, et al.

McElroy v. Guzman · No. 1:25-cv-00748 JLT BAM (PC) · Decided November 24, 2025

SUMMARY

The court denied Plaintiff E.J. McElroy’s motion for an additional extension of time to pay the filing fee. The court dismissed the § 1983 action without prejudice because Plaintiff failed to comply with the court’s order and pay the required filing fee. The Clerk was directed to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jennifer L. Thurston
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 24, 2025
DOCKET	1:25-cv-00748 JLT BAM (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, sought an additional extension of time to pay the filing fee after the court denied in forma pauperis status under the three-strikes bar. The district court denied the extension motion and dismissed the action without prejudice for failure to obey the court's order and failure to pay the filing fee.
STANDARD OF REVIEW	The court exercised its authority to dismiss for failure to obey a court order, applying the principles recognized in <i>Ferdik v. Bonzelet</i> .
PRECEDENTIAL VALUE	Unpublished district court order; nonprecedential

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- Civil rights
- Prisoner litigation
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to another extension of time to pay the filing fee.
2. Whether the action should be dismissed without prejudice for failure to obey the court's order and failure to pay the required filing fee.

HOLDINGS

1. A further extension was not warranted because Plaintiff had ample time to pay the filing fee, provided no indication that he could obtain the funds within a reasonable time, and relied on speculative strategies for acquiring the money.
2. The action was dismissed without prejudice because Plaintiff failed to comply with the court's order requiring payment of the filing fee.

KEY QUOTATIONS

“Because Plaintiff has failed to obey the Court’s order and pay the appropriate filing fee, and Plaintiff has presented no indication that she has the means to pay the filing fee, this case cannot proceed.”

FACTUAL BACKGROUND

Plaintiff is a state prisoner who was denied in forma pauperis status under the three-strikes provision of 28 U.S.C. § 1915(g) and was ordered to pay the \$405 filing fee. After receiving multiple extensions, Plaintiff still had not paid the fee by the November 10, 2025 deadline. Plaintiff sought another 60-day extension, citing limited law-library access, disability and mental-health issues, difficulty accessing legal property, and the need to research financial-transfer options and contact potential sources of funds.

PROCEDURAL HISTORY

The magistrate judge recommended denying Plaintiff’s application to proceed in forma pauperis because Plaintiff was subject to 28 U.S.C. § 1915(g), and recommended that Plaintiff be ordered to pay the \$405 filing fee. The district court adopted those recommendations and granted multiple extensions, but Plaintiff did not pay by the final deadline of November 10, 2025. Plaintiff then moved for another 60-day extension, which the court denied before dismissing the action without prejudice and directing the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 E.J. MCELROY, a.k.a. EIBON No. 1:25-cv-00748 JLT BAM (PC)

MCELROY, a.k.a. LATWAHN 12 MCELROY, a.k.a. LATHWAHN ORDER DENYING PLAINTIFF'S MOTION MCELROY, FOR EXTENSION OF TIME 13 (Doc. 18) Plaintiff, 14 ORDER DISMISSING ACTION WITHOUT v. PREJUDICE FOR FAILURE TO PAY FILING 15 FEE AND FAILURE TO OBEY COURT SGT.

GUZMAN, et al., ORDER 16 (Docs. 12, 14, 17) Defendants. 17 18 E. J. McElroy is a state prisoner proceeding pro se in this civil rights action pursuant to 42 19 U.S.C. § 1983. On June 26, 2025, the then-assigned magistrate judge issued findings and 20 recommendations recommending that Plaintiff's application to proceed in forma pauperis be 21 denied because he is subject to the three strikes bar of 28 U.S.C. § 1915(g).

(Doc. 9.) The 22 magistrate judge also recommended that Plaintiff be ordered to pay the required \$405.00 filing 23 fee in full to proceed with this action. (Id.) Despite receiving an extension of the deadline, 24 Plaintiff did not file objections to the findings and recommendations. (Doc. 11.)

On August 12, 25 2025, the Court adopted the findings and recommendations in full and ordered Plaintiff to pay the 26 filing fee in full within 21 days. (Doc. 12.) 27 Following two extensions of time, the deadline for Plaintiff to pay the filing fee was 28 November 10, 2025. (Docs. 14, 17.) Plaintiff has not paid the filing fee, and the deadline for him 1 to do so has expired.

In lieu of paying the filing fee, on November 18, 2025, Plaintiff filed a 2 "Motion for extension of 60 days time and/or a continuance until the relevant needs can be met." 3 (Doc. 18.) As in his prior request for an extension of time, Plaintiff asserts that circumstances 4 beyond his control are preventing him from paying the filing fee in compliance with the Court's 5 order.

These circumstances appear to include a lack of access to the facility law library, Plaintiff's 6 disability and mental health, and Plaintiff's need to conduct legal and financial research and 7 consult experts regarding electronic monetary transfers. Plaintiff also states that he is unable to 8 access his legal property that contains contact information for persons who can help him complete 9 the task.

Although Plaintiff's motion purports to seek only an extension of time or continuance of 10 the deadline to pay the filing fee, Plaintiff also seeks a Court order allowing Plaintiff access to a 11 private open line phone and/or telephonic conference to communicate with legal offices and 12 financial institutions to make arrangements to satisfy the Court's order, as well as telephonic 13 access to obtain class counsel regarding payment from an unspecified class action regarding a 14 data breach.

The remainder of Plaintiff's motion appears related to the underlying merits of his 15 claims. 16 As the magistrate judge found in response to Plaintiff's previous request for extension of 17 time, Plaintiff has had ample time to pay the filing fee and has failed to do so. Plaintiff again 18 provides no indication that he expects to secure the funds—from any source—in a timely manner

19 to pay the filing fee, nor does Plaintiff cite to any authority entitling him to repeated extensions of 20 time until he can acquire the necessary funds to proceed with this action.

More than three months 21 have passed since Plaintiff was first ordered to pay the filing fee, and more than five months have 22 passed since this action was filed. The Court finds that a further extension of time is not 23 warranted where Plaintiff also requests Court intervention to allow him to pursue strategies that 24 provide only a speculative opportunity for Plaintiff to acquire the necessary funds.

25 Because Plaintiff has failed to obey the Court's order and pay the appropriate filing fee, 26 and Plaintiff has presented no indication that she has the means to pay the filing fee, this case 27 cannot proceed. This matter will be dismissed. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 28 (9th Cir. 1992).

Thus, the Court ORDERS: 1 1. Plaintiff's motion for extension of time, (Doc. 18), is DENIED. 2 2. This action is DISMISSED, without prejudice, for Plaintiff's failure to comply with the 3 Court's order and failure to pay the filing fee; and 4 3.

The Clerk of the Court is directed to close this case. 5 6 IT IS SO ORDERED. 7 | Dated: _November 24, 2025 Cerin | Tower TED STATES DISTRICT JUDGE 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28