

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Tucker v. Johnson

No. 25-cv-2229-AGS-KSC (S.D. Cal. Sept. 3, 2025) · No. 25-cv-2229-AGS-KSC · Decided September 3, 2025

SUMMARY

The United States District Court for the Southern District of California granted Rodney Tucker’s motion to proceed in forma pauperis. The court dismissed his complaint without prejudice for lack of subject-matter jurisdiction and failure to state a claim, finding that the allegations were unclear and did not plausibly identify a claim against the defendant. The court granted leave to amend by November 3, 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 3, 2025
DOCKET	25-cv-2229-AGS-KSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff sought leave to proceed in forma pauperis. The district court granted the application, screened the complaint under the in forma pauperis statute, dismissed the action without prejudice for lack of subject-matter jurisdiction and failure to state a claim, and granted leave to amend.
STANDARD OF REVIEW	The complaint was subject to mandatory screening under 28 U.S.C. § 1915(e)(2). The court applied the Rule 8 and Rule 12(b)(6) plausibility standard, accepting well-pleaded factual allegations as true for purposes of screening.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Rodney H. Tucker v. Joel Johnson

TOPICS

- subject matter jurisdiction
- pleadings
- motions to dismiss
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Tucker qualified to proceed in forma pauperis based on his financial circumstances.
2. Whether the complaint adequately established federal subject-matter jurisdiction.
3. Whether the complaint stated a plausible claim for relief under the pleading standards applicable to in forma pauperis screening.
4. Whether dismissal should be without prejudice and with leave to amend.

HOLDINGS

1. Tucker qualified to proceed in forma pauperis because his low income and lack of available assets showed that he could not satisfy the filing fee, even though the court questioned the completeness or plausibility of his reported expenses.
2. A district court must dismiss an in forma pauperis complaint that fails to state a claim.
3. Tucker failed to establish federal subject-matter jurisdiction because his complaint did not identify a federal cause of action, alleged that the defendant worked for a county rather than the federal government, and appeared to allege that both parties were California citizens, defeating complete diversity.
4. The complaint failed to state a plausible claim because it did not clearly identify what claim Tucker was asserting or allege facts showing that Johnson committed a tort or other actionable wrong.
5. Dismissal without leave to amend was not warranted because the jurisdictional and pleading deficiencies were not necessarily incurable; Tucker was therefore granted leave to file an amended complaint.

KEY QUOTATIONS

“The IFP statute “not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim.”” (at 2)

“Because a “district court should not dismiss a pro se complaint without leave to amend unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment,” the Court will provide Tucker an opportunity to amend his complaint to address those defects.” (at 3)

“Plaintiff’s complaint is DISMISSED without prejudice due to lack of jurisdiction and for failure to state a claim. But plaintiff is granted leave to amend.” (at 3)

FACTUAL BACKGROUND

Tucker alleged that Johnson was a worker for the County of San Diego Health and Human Services. His complaint referred to general relief, Social Security benefits, alleged false policies or information, and an agency fraud, but did not clearly identify a cause of action or describe conduct by Johnson supporting a claim. Tucker also alleged that he and Johnson were both from California and identified Johnson as a county rather than federal government employee.

PROCEDURAL HISTORY

Tucker filed a civil complaint against Joel Johnson and an application to proceed in forma pauperis. The court found that Tucker lacked sufficient factual allegations establishing federal subject-matter jurisdiction or stating a plausible claim, but concluded that the deficiencies might be cured by amendment. The court dismissed without prejudice and ordered Tucker to file an amended complaint by November 3, 2025.

DISPOSITION

dismissed

CASES CITED

- Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999)
- Blount v. Saul, No. 21-CV-0679-BLM, 2021 WL 1561453, at *1 (S.D. Cal. Apr. 21, 2021)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- In re Dynamic Random Access Memory (DRAM) Antitrust Litig., 546 F.3d 981, 984 (9th Cir. 2008)
- Grable & Sons Metal Prods. v. Darue Eng'g & Mfg., 545 U.S. 308, 312 (2005)
- Wisconsin Dep't of Corr. v. Schacht, 524 U.S. 381, 388 (1998)
- Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)

OPINION

Tucker v. Johnson

PER CURIAM.

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF CALIFORNIA

3 Rodney H. TUCKER, Case No.: 25-cv-2229-AGS-KSC 4

ORDER GRANTING MOTION TO

Plaintiff,

5 PROCEED IN FORMA PAUPERIS

v. (ECF 2) AND DISMISSING ACTION

6

WITH LEAVE TO AMEND

7 Joel JOHNSON, 8 Defendant. 9 Plaintiff Rodney Tucker, proceeding without an attorney, is suing Joel Johnson, a 10 “worker” for the “County of San Diego, CA Health and Human” Services. He also requests 11 to proceed in forma pauperis, that is, without paying the court’s filing fees. As explained 12 below, his IFP application is granted. But his claim does not survive mandatory screening. 13

DISCUSSION

14 A. IFP Application 15 Parties instituting civil actions in United States district courts must pay \$405 in filing 16 fees. See 28 U.S.C. § 1914(a); Judicial Conference Schedule of Fees, District Court Misc. 17 Fee Schedule, § 14 (eff. Dec. 1, 2023). But plaintiffs granted the right to proceed IFP need 18 not pay those fees. *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). 19 Tucker's application states that he receives only "598" dollars a month in welfare 20 assistance, has no cash on hand, and owns no assets other than a car he values at "\$1,000." 21 (ECF 2, at 1–3.) His application also surprisingly indicates that he has no expenditures 22 except around a hundred dollars a month on car insurance, including a purported zero 23 dollars spent on food, clothing, and housing. (Id. at 4–5.) 24 Although the Court is dubious about Tucker's expenses, it's clear his earnings are 25 very low, and he has no assets on hand to satisfy the filing fee. As "a party need not be 26 completely destitute to proceed IFP," the motion is granted. See *Blount v. Saul*, No. 21- 27 CV-0679-BLM, 2021 WL 1561453, at *1 (S.D. Cal. Apr. 21, 2021). 28 1 B. Screening and Dismissal 2 The IFP statute "not only permits but requires a district court to dismiss an in forma 3 pauperis complaint that fails to state a claim." *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 4 2000) (citing 28 U.S.C. § 1915(e)(2)). Federal Rules of Civil Procedure 8 and 12(b)(6) 5 require a complaint to "contain sufficient factual matter, accepted as true, to 'state a claim 6 to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting 7 *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). 8 There are several issues that require dismissal. Initially, Tucker, as the "party 9 asserting jurisdiction," "bears the burden of establishing subject matter jurisdiction." *In re 10 Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 546 F.3d 981, 984 (9th Cir. 11 2008). Tucker checked a box on his complaint form indicating that jurisdiction in this case 12 is based on defendant's status as a "U.S. Government Defendant." (ECF 1, at 3.) But he 13 alleges that defendant works for San Diego County, rather than the U.S. Government. (Id. 14 at 1.) And he does not obviously meet either of the other two common forms of subject- 15 matter jurisdiction: he doesn't identify a federal cause of action for federal-question 16 jurisdiction, and he undermines diversity jurisdiction by claiming he and defendant are 17 both from California. See *Grable & Sons Metal Prods. v. Darue Eng'g & Mfg.*, 545 U.S. 18 308, 312 (2005) (holding "federal-question jurisdiction is invoked by and large by plaintiffs 19 pleading a cause of action created by federal law (e.g., claims under 42 U.S.C. § 1983)"); 20 *Wisconsin Dep't of Corr. v. Schacht*, 524 U.S. 381, 388 (1998) ("A case falls within the 21 federal district court's original diversity jurisdiction only if diversity of citizenship among 22 the parties is complete, i.e., only if there is no plaintiff and no defendant who are citizens 23 of the same State." (cleaned up)). 24 But even if he had adequately indicated that this Court has jurisdiction over his 25 claim, the Court is unsure of what his claim is and what he alleges occurred. Here is every 26 word of the complaint's factual allegations: 27 2nd of Sept 2025 Claim of genral Relief not put in my account! Talk to Supervisor! givin Me false Policys of Agecy About Social Security acts. State 28 1 Avocate Must Be a Source of General Relief To Have Benifits Complete. System in Fraud! To Deffert

Agency. Social Security and County Health Services (Don't! Comply!) Together) False information Static given to me. I have a Letter from Social Security Thate State August 4th 2025 (Ref A) BNa# 4 25BC193A85227 Rodeny H. Tucker Has a Medical Claim Pending with Social Sucurity ADMin. 700 E 24th St National City, CA 91950 (ECF 1, at 5 (all errors in original).) Whatever Tucker meant with that, the Court cannot say that it plausibly alleges Johnson committed any tort. But neither of these defects are necessarily fatal to Tucker's claim. With additional detail and a clearer recounting of his cause of action, he may well be able to appropriately invoke this Court's jurisdiction and state a claim. Because a "district court should not dismiss a pro se complaint without leave to amend unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment," the Court will provide B Tucker an opportunity to amend his complaint to address those defects. See *Rosati v. Igbinoso*, 791 F.3d 1037, 1039 (9th Cir. 2015) (cleaned up).

15 CONCLUSION

Thus, the Court orders as follows: 1. Plaintiff's motion to proceed in forma pauperis is GRANTED, and the filing fee is waived. 2. Plaintiff's complaint is DISMISSED without prejudice due to lack of jurisdiction and for failure to state a claim. But plaintiff is granted leave to amend. 3. By November 3, 2025, plaintiff must file any amended complaint. The amended complaint must be complete by itself without reference to any previous version of the pleading; defendants not named and any claims not re-alleged in the amended A complaint will be considered waived. If Tucker fails to timely amend, the Court will enter final Order dismissing this civil action. Dated: September 3, 2025 a7 AK 28 United States District Judge