

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Meriwether v. Mosqueda

Meriwether · No. 1:25-cv-00284-SAB (PC) · Decided March 11, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends denying Jeremy Meriwether’s motion to proceed in forma pauperis because his prison trust account showed sufficient funds to pay the \$405 filing fee. The court also orders the clerk to randomly assign a district judge and recommends directing Plaintiff to prepay the filing fee.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 11, 2025
DOCKET	1:25-cv-00284-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, moved to proceed in forma pauperis. The magistrate judge issued findings and recommendations that the motion be denied and that Plaintiff be required to prepay the filing fee.
STANDARD OF REVIEW	The Court evaluated Plaintiff's financial eligibility under 28 U.S.C. § 1915(a) based on the submitted financial affidavit and certified prison trust account statement.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

- Prisoner civil rights
- In forma pauperis proceedings
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff satisfied the financial requirements for proceeding in forma pauperis under 28 U.S.C. § 1915(a).
2. Whether Plaintiff should be required to prepay the \$405.00 filing fee based on the balance reflected in his prison trust account.

HOLDINGS

1. The magistrate judge recommended denying Plaintiff's motion to proceed in forma pauperis because his prison trust account contained sufficient funds to prepay the \$405.00 filing fee.

KEY QUOTATIONS

"28 U.S.C. § 1915(a)(1) permits a plaintiff to bring a civil action "without prepayment of fees or security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff's "is unable to pay such fees or give security therefor."" (at 1)

"Therefore, Plaintiff's motion to proceed in forma pauperis must be denied. If Plaintiff wishes to proceed with this action, Plaintiff must pre-pay the \$405.00 filing fee in full." (at 2)

FACTUAL BACKGROUND

Plaintiff was incarcerated at Corcoran State Prison and submitted an application declaring that he was unable to prepay the costs of the action. His trust account statement showed an available balance of \$876.07 as of March 7, 2025. Because the balance exceeded the \$405.00 filing fee, the magistrate judge concluded that Plaintiff could prepay the fee while retaining funds in his account.

PROCEDURAL HISTORY

Plaintiff filed the action and an application to proceed in forma pauperis on March 6, 2025. The Court received his prison trust account statement on March 11, 2025. After determining that the account balance was sufficient to pay the full filing fee, the magistrate judge recommended denial of in forma pauperis status and ordered random assignment of a district judge.

DISPOSITION

other

CASES CITED

- Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995)
- Collier v. Tatum, 722 F.2d 653, 656 (11th Cir. 1983)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

(PC) Meriwether v. Mosqueda

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 JEREMY MERIWETHER, No. 1:25-cv-00284-SAB (PC)

12 Plaintiff, ORDER DIRECTING CLERK OF COURT

TO RANDOMLY ASSIGN A DISTRICT

13 v. JUDGE TO THIS ACTION

14 MOSQUEDA, et al., FINDINGS AND RECOMMENDATIONS

RECOMMENDING PLAINTIFF'S MOTION

15 TO PROCEED IN FORMA PAUPERIS BE

Defendants. DENIED 16 (ECF Nos. 2, 6) 17 18 19 Plaintiff is proceeding pro se in this action
filed pursuant to 42 U.S.C. § 1983. 20 Plaintiff filed the instant action on March 6, 2025, along
with a motion to proceed in 21 forma pauperis. (ECF Nos. 1, 2.) On March 11, 2025, the Court
received Plaintiff's trust fund 22 account statement. (ECF No. 6.) 23 I. 24

DISCUSSION

25 A. Application to Proceed In Forma Pauperis 26 28 U.S.C. § 1915(a)(1) permits a plaintiff to
bring a civil action "without prepayment of 27 fees or security thereof" if the plaintiff submits a
financial affidavit that demonstrates the plaintiff's 28 1 "is unable to pay such fees or give security
therefor." A prisoner seeking to bring a civil action 2 must, in addition to filing an affidavit,
"submit a certified copy of the trust fund account statement 3 ... for the 6-month period
immediately preceding the filing of the complaint ... obtained from the 4 appropriate official of
each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). 5 Plaintiff has filed
an application declaring that, due to his poverty, he is unable to pre-pay 6 the full amount of fees
and costs for these proceedings or give security therefor, and that he believes 7 that he is entitled
to the relief sought in his complaint. On March 11, 2025, the Court received 8 Plaintiff's prison
trust account statement from Corcoran State Prison. (ECF No. 6.) The statement 9 provides that as
of March 7, 2025, Plaintiff currently has \$876.07 to his credit. Thus, the available 10 balance in
Plaintiff's account reflects that he can pay the \$405.00 filing fee for this action. 11 Based on the
foregoing, the information that Plaintiff has provided to the Court reflects that 12 he is financially
able to pre-pay the entire filing fee to commence this action. Although the Ninth 13 Circuit Court
of Appeals has held that "the filing fee ... should not take the prisoner's last dollar," 14 Olivares v.
Marshall, 59 F.3d 109, 112 (9th Cir. 1995), in these circumstances, it appears Plaintiff 15 has
sufficient funds to pre-pay the \$405.00 filing fee with money left over. Should Plaintiff have 16
additional information to provide the Court, or should his available balance change by the time he
17 receives this order, he may notify the Court. However, the Court has the authority to consider

any 18 reasons and circumstances for any change in Plaintiff's available assets and funds. See Collier v. 19 Tatum, 722 F.2d 653, 656 (11th Cir. 1983) (district court may consider an unexplained decrease in 20 an inmate's trust account, or whether an inmate's account has been depleted intentionally to avoid 21 court costs). Therefore, Plaintiff's motion to proceed in forma pauperis must be denied. If Plaintiff 22 wishes to proceed with this action, Plaintiff must pre-pay the \$405.00 filing fee in full. 23 II.

24 ORDER AND RECOMMENDATION

25 Based on the foregoing, it is HEREBY ORDERED that the Clerk of Court shall randomly 26 assign a District Judge to this action. 27 /// 28 /// 1 Further, it is HEREBY RECOMMENDED that:
2 1. Plaintiff motion to proceed in forma pauperis (ECF No. 2) be denied; and 3 2. Plaintiff be directed to pay the \$405.00 filing fee for this action. 4 These Findings and Recommendations will be submitted to the United States District Judge 5 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(). Within fourteen (14) 6 | days after being served with these Findings and Recommendations, Plaintiff may file written 7 | objections with the Court. The document should be captioned "Objections to Magistrate Judge's 8 | Findings and Recommendations." Plaintiff is advised that failure to file objections within the 9 | specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 10 | 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). 11

b IT IS SO ORDERED. DAM Le

13 | Dated: _March 11, 2025 _ OO

STANLEY A. BOONE

14 United States Magistrate Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28