

**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

OPINION

(PC) Meriwether v. Mosqueda

PER CURIAM.

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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. 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