

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 21 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ABUBAKAR HUSSEIN AHMED,

No. 15-17136

Plaintiff-Appellant,

D.C. No. 2:15-cv-00409-DJH

v.

MEMORANDUM*

ARIZONA DEPARTMENT OF
TRANSPORTATION, ADOT agent of
Stacey K Stanton; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona

Diane J. Humetewa, District Judge, Presiding

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Abubakar Hussein Ahmed appeals pro se from the district court's order dismissing his action brought under 42 U.S.C. § 1983 and other federal statutes for failure to pay the filing fee after denying his application to proceed in forma

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pauperis (“IFP”). We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015). We vacate and remand.

The district court abused its discretion in denying Ahmed’s IFP application in light of the \$400 filing fee and Ahmed’s declaration showing a monthly income of only \$425 and no assets. *See id.* (“An affidavit in support of an IFP application is sufficient where it alleges that the affiant cannot pay the court costs and still afford the necessities of life.”). Ahmed’s filings before this court, however, suggest Ahmed may no longer be indigent. We therefore vacate the district court’s dismissal and remand with instructions for the district court to permit Ahmed to either file another IFP application or to pay the filing fee.

We reject as without merit Ahmed’s contentions that he was denied due process in the district court.

Ahmed’s request for reimbursement of the filing fee on appeal, set forth in his opening brief, is denied.

VACATED and REMANDED.

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ABUBAKAR HUSSEIN AHMED,

Plaintiff-Appellant,

v.

ARIZONA DEPARTMENT OF
TRANSPORTATION, ADOT agent of
Stacey K Stanton; et al.,

Defendants-Appellees.

No. 15-17136

D.C. No. 2:15-cv-00409-DJH
District of Arizona,
Phoenix

ORDER

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Ahmed's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 21) are denied.

No further filings will be entertained in this closed case.

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Abubakar Ahmed,

Plaintiff,

v.

Arizona Department of Transportation, et
al.,

Defendants.

No. CV-15-00409-PHX-DJH

ORDER

This matter is before the Court on Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (Doc. 2). Plaintiff's application, signed under penalty of perjury, reflects that although his monthly income is low, he has no expenses. The application will therefore be denied.

Accordingly,

IT IS ORDERED that Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (Doc. 2) is **DENIED**.

IT IS FURTHER ORDERED that unless Plaintiff pays the filing fee in full on or before April 17, 2015, the Clerk of Court shall dismiss this action without further notice to Plaintiff.

Dated this 27th day of March, 2015.


Honorable Diane J. Humetewa
United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**