

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

**Abass Y. Bamba,
Petitioner,**

V.

**United States Court of Appeals for the Tenth Circuit,
Respondent.**

**APPENDIX TO PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

Submitted by:
Abass Y. Bamba
995 S. Locust St.
Denver, CO 80224
Telephone: (720) 436-2288
Email: ybamba@y2fox.com
Pro Se

Appellate Case No. 25-1073
Judgment Entered: April 7, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-00175-RTG

ABASS YAYA BAMBA,

Plaintiff,

v.

PHILIP J. WEISER, in his official capacity as the Attorney General of Colorado,
JEREMIAH BRUNNER, in his official capacity as Investigator for Attorney General
Office,
ALEX BOGUNIEWICZ, in his official capacity as Assistant Attorney General of
Colorado,

Defendants.

ORDER DENYING LEAVE TO PROCEED PURSUANT TO 28 U.S.C. § 1915

Plaintiff, a resident of Denver, Colorado, has filed *pro se* a Complaint (ECF No. 14) and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 15). For the reasons below, the motion seeking leave to proceed without prepayment of fees or costs will be denied.

Subsection (a)(1) of 28 U.S.C. § 1915 allows a litigant to commence a lawsuit without prepayment of fees or security therefor. However, there is no fundamental right to file a civil action in federal court without paying a filing fee. *See White v. Colorado*, 157 F.3d 1226, 1233 (10th Cir. 1998); *see also* 28 U.S.C. § 1914(a). Proceeding *in forma pauperis* (IFP) pursuant to § 1915, *i.e.* without prepaying a filing fee under § 1914, is a privilege extended to individuals unable to pay such a fee. *See id.*

In the IFP motion and affidavit, Plaintiff attests to receiving an average monthly

income over the past twelve months of \$1,700 per month, comprised of self-employment. (ECF No. 15 at 1-2). He states that he has no income expected next month. (*Id.* at 2). He states that he has \$2,350 in checking and savings accounts. (*Id.* at 2). He states that he owns a home with a value of \$950,000 and has no mortgage. (*Id.* at 3, 4). He states that he has \$6,000 in other assets. (*Id.* at 3). He states that he has \$1,465 in total monthly expenses. (*Id.* at 5). He also refers to a monthly expense of \$5,644.06 in taxes. (*Id.* at 4).

Based on the information provided in the IFP motion and affidavit, the Court finds that Plaintiff has sufficient financial resources to pay the full amount of \$405.00 (\$350.00 filing fee pursuant to 28 U.S.C. § 1914(a) plus a \$55.00 administrative fee) necessary to commence a civil action. "One need not be 'absolutely destitute' to proceed IFP, but IFP need not be granted where one can pay or give security for the costs 'and still be able to provide himself and dependents with the necessities of life.'" *Lewis v. Center Market*, 378 Fed. App'x. 780, 785 (10th Cir. 2010) (unpublished). Plaintiff will be denied leave to proceed IFP pursuant to 28 U.S.C. § 1915 and will be directed to pay the full amount of \$405.00 to pursue any claims in this action.

The Court notes that in a previous action filed by Plaintiff, *Bamba v. Dominion Financial Services, LLC*, No. 24-cv-00826-SKC-NRN, Plaintiff was granted leave to proceed without prepaying the filing fee on April 3, 2024. In that case, Plaintiff attested to the Court on April 1, 2024, that he expected to have no income the following month, i.e., May 2024. (See No. 24-cv-00826-SKC-NRN at ECF No. 5). However, in the present action, Plaintiff attested to the Court on February 6, 2025, that he has had

\$1,700 in monthly income for the past twelve months. (ECF No. 15 at 1). His bank balances have increased by \$950. (*Id.* at 2; ECF No. 24-cv-00826-SKC-NRN at ECF No. 5 at 2). Based on this information and the information set forth above, including Plaintiff's \$950,000 in home equity, the Court concludes that Plaintiff's application to proceed *in forma pauperis* properly is denied.

Accordingly, it is

ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 15) is DENIED. It is

FURTHER ORDERED that Plaintiff shall pay the full amount of \$405.00 (\$350.00 filing fee, plus a \$55.00 administrative fee) **within thirty (30) days from the date of this order** if Plaintiff wishes to pursue any claims in this action.

It is

FURTHER ORDERED that, if Plaintiff fails to pay the full amount of \$405.00 within the time allowed, the complaint and the action **will be dismissed without prejudice and without further notice.**

DATED at Denver, Colorado, this 11th day of February, 2025.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-00175-RTG

ABASS YAYA BAMBA,

Plaintiff,

v.

PHILIP J. WEISER, in his official capacity as the Attorney General of Colorado,
JEREMIAH BRUNNER, in his official capacity as Investigator for Attorney General
Office,
ALEX BOGUNIEWICZ, in his official capacity as Assistant Attorney General of
Colorado,

Defendants.

ORDER OF DISMISSAL

Plaintiff Abass Yaya Bamba, a resident of Denver, Colorado, commenced this action *pro se* on January 17, 2025, and on February 5 and 6, 2025, he filed a Complaint (ECF No. 14) and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 15).

On February 11, 2025, the Court issued an order denying Plaintiff leave to proceed *in forma pauperis*. (ECF No. 16). The February 11 order stated in relevant part:

Subsection (a)(1) of 28 U.S.C. § 1915 allows a litigant to commence a lawsuit without prepayment of fees or security therefor. However, there is no fundamental right to file a civil action in federal court without paying a filing fee. See *White v. Colorado*, 157 F.3d 1226, 1233 (10th Cir. 1998); see also 28 U.S.C. § 1914(a). Proceeding *in forma pauperis* (IFP) pursuant to § 1915, *i.e.* without prepaying a filing fee under § 1914, is a privilege extended to individuals unable to pay such a fee.

See *id.*

In the IFP motion and affidavit, Plaintiff attests to receiving an average monthly income over the past twelve months of \$1,700 per month, comprised of self-employment. (ECF No. 15 at 1-2). He states that he has no income expected next month. (*Id.* at 2). He states that he has \$2,350 in checking and savings accounts. (*Id.* at 2). He states that he owns a home with a value of \$950,000 and has no mortgage. (*Id.* at 3, 4). He states that he has \$6,000 in other assets. (*Id.* at 3). He states that his monthly expenses total \$1,465. (*Id.* at 5). He also refers to owing \$5,644.06 in taxes. (*Id.* at 4).

Based on the information provided in the IFP motion and affidavit, the Court finds that Plaintiff has sufficient financial resources to pay the full amount of \$405.00 (\$350.00 filing fee pursuant to 28 U.S.C. § 1914(a) plus a \$55.00 administrative fee) necessary to commence a civil action. "One need not be 'absolutely destitute' to proceed IFP, but IFP need not be granted where one can pay or give security for the costs 'and still be able to provide himself and dependents with the necessities of life.'" *Lewis v. Center Market*, 378 Fed. App'x. 780, 785 (10th Cir. 2010) (unpublished). Plaintiff will be denied leave to proceed IFP pursuant to 28 U.S.C. § 1915 and will be directed to pay the full amount of \$405.00 to pursue any claims in this action.

The Court notes that in a previous action filed by Plaintiff, *Bamba v. Dominion Financial Services, LLC*, No. 24-cv-00826-SKC-NRN, Plaintiff was granted leave to proceed without prepaying the filing fee on April 3, 2024. In that case, Plaintiff attested to the Court on April 1, 2024, that he expected to have no income the following month, *i.e.*, May 2024. (See No. 24-cv-00826-SKC-NRN at ECF No. 5). However, in the present action, Plaintiff attested to the Court on February 6, 2025, that he has had \$1,700 in monthly income for the past twelve months. (ECF No. 15 at 1). His bank balances have increased by \$950. (*Id.* at 2; ECF No. 24-cv-00826-SKC-NRN at ECF No. 5 at 2). Based on this information and the information set forth above, including Plaintiff's \$950,000 in home equity, the Court concludes that Plaintiff's application to proceed *in forma pauperis* properly is denied.

(*Id.* at 1-3).

Plaintiff was directed to pay the \$405.00 filing and administrative fee within 30 days of the February 11 order. (*Id.* at 3). The Court warned Plaintiff that failure to

comply would result in dismissal of this action without prejudice and without further notice. (*Id.*).

Plaintiff has failed to pay the filing and administrative fee as directed within the time allowed. For the above reasons, this action will be dismissed without prejudice for failure to pay the filing and administrative fee. Accordingly, it is

ORDERED that this action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to pay the \$405.00 filing and administrative fee as directed. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he must also pay the full \$605 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 3rd day of April, 2025.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

March 21, 2025

Christopher M. Wolpert
Clerk of Court

In re: ABASS YAYA BAMBA,

Petitioner.

No. 25-1073
(D.C. No. 1:25-CV-00175-RTG)
(D. Colo.)

ORDER

Before **PHILLIPS, KELLY, and CARSON**, Circuit Judges.

Abass Yaya Bamba filed a lawsuit in the district court. The court denied his motion to proceed without prepaying costs or fees, his motion seeking the magistrate judge's recusal, his motion seeking to reassign the case to a different district judge, and his motion to transfer venue. The district-court clerk revoked Mr. Bamba's electronic-filing privileges. Mr. Bamba petitions for a writ of mandamus to reverse all of those actions.

A writ of mandamus is a drastic remedy, available only in extraordinary circumstances. *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009).

We will issue the writ only if three conditions exist:

1. The petitioner has no other way to obtain the desired relief.
2. The petitioner has shown a clear and indisputable right to the writ.
3. We have determined, using our discretion, that the writ is appropriate under the circumstances.

See id. at 1187.

Measured against this demanding standard, Mr. Bamba's petition proves utterly inadequate. At bottom, the petition fails to engage with the reasons behind the district court's actions. Mr. Bamba says, for example, that the court denied his motion to proceed without prepaying fees "without justification." Pet. at 1. But the district court issued a three-page order explaining the justification for its decision. Mr. Bamba simply ignores it. He similarly ignores the reasons behind the denial of his motion to transfer venue and the revocation of his electronic-filing privileges. Attributing bias to both the magistrate judge and the district judge, he cites "a pattern of rulings that favor the opposing party." *Id.* Yet it is well established that "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994). And Mr. Bamba makes no effort to show this case is one of the rare ones in which rulings alone could reveal a level of bias requiring recusal. For these reasons, we conclude Mr. Bamba's petition is frivolous. *See Braley v. Campbell*, 832 F.2d 1504, 1510 (10th Cir. 1987) (en banc) (recognizing that a proceeding "is frivolous when the result is obvious" or the arguments "are wholly without merit" (internal quotation marks omitted)).

* * *

We dismiss Mr. Bamba's mandamus petition as frivolous. We deny his motion to proceed in this court without prepaying costs or fees because he fails to present "a

reasoned, nonfrivolous argument on the law and facts.” *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991).

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', written over a horizontal line.

CHRISTOPHER M. WOLPERT, Clerk

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse

1823 Stout Street

Denver, Colorado 80257

(303) 844-3157

Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

March 21, 2025

Abass Yaya Bamba
995 South Locust Street
Denver, CO 80224

RE: 25-1073, In re: Bamba
Dist/Ag docket: 1:25-CV-00175-RTG

Dear Petitioner:

Enclosed please find the final order issued today by the court.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of Court

CMW/sds

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 7, 2025

Christopher M. Wolpert
Clerk of Court

In re: ABASS YAYA BAMBA,

Petitioner.

No. 25-1073
(D.C. No. 1:25-CV-00175-RTG)
(D. Colo.)

ORDER

Before **PHILLIPS, KELLY, and CARSON**, Circuit Judges.

Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk