UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREVON FOREMAN and LOTISHA DAVIDSON,

Plaintiffs,

v.

DISTRICT ATTORNEY OF BAKERSFIELD,

Defendant.

_____/

Case No. 1:22-cv-00581-DAD-BAK (SKO)

ORDER WITHDRAWING FINDINGS AND RECOMMENDATIONS AND DIRECTING PLAINTIFF TO FILE AN AMENDED APPLICATION TO PROCEED IN FORMA PAUPERIS

(Docs. 4, 6, 7)

30-DAY DEADLINE

Plaintiffs Trevon Foreman and Lotisha Davidson ("Plaintiffs") are proceeding *pro se* in this action. Plaintiffs filed their complaint against Defendant District Attorney of Bakersfield on May 16, 2022. (Doc. 1.) On that same date, Plaintiff Foreman, a state prisoner, filed an application to proceed *in forma pauperis* ("IFP") without prepayment of fees. (Doc. 2.)

On May 20, 2022, the undersigned issued an order finding that Plaintiff Foreman failed to submit to the Court a certified copy of his trust fund account statement, providing him another IFP application form, and directing him to file an amended IFP application that corrects the identified deficiencies within thirty days. (Doc. 4.)

Having received no response from Plaintiff Foreman, the undersigned issued an order to show cause ("OSC") why he should not be dismissed for his failure to comply with the Court's order

and for his failure to prosecute this action.[1] (Doc. 6.) Plaintiff Foreman failed to file a response to the OSC.

On July 22, 2022, the undersigned issued findings and recommendations that Plaintiff Foreman be dismissed from this case without prejudice for his failure to obey the Court's orders and to prosecute this action. (Doc. 7.) The findings and recommendations were served on Plaintiff Foreman and contained notice that any objections thereto were to be filed within twenty-one (21) days after service. (*See id*.)

On July 26, 2022, Plaintiff Foreman filed a certified copy of his prisoner trust account (Doc. 8), but neglected to file an amended IFP application as previously ordered. Accordingly, it is HEREBY ORDERED that:

1. The findings and recommendations (Doc. 7) are WITHDRAWN;
2. The Clerk of Court shall attach to this order a form application to proceed without prepayment of fees and affidavit;
3. Within thirty (30) days of the date of service of this order, Plaintiff Foreman shall complete, sign, and file the attached application.[2] Alternatively, Plaintiff Foreman may pay the $402.00 filing fee for this action. **Failure to comply with this order will result in the recommendation that Plaintiff Foreman be dismissed from this action.**

IT IS SO ORDERED.

Dated: **July 28, 2022**

/s/ *Sheila K. Oberto*
UNITED STATES MAGISTRATE JUDGE

[1] Plaintiff Lotisha Davidson filed her own application to proceed in forma pauperis, but it contains information related to only her finances. (*See* Doc. 5.) "Where there are multiple plaintiffs in a single action, the plaintiffs may not proceed in forma pauperis unless ***all*** of them demonstrate inability to pay the filing fee." *Darden v. Indymac Bancorp, Inc*., No. CIV S-09-2970 JAM DAD, 2009 WL 5206637, at *1 (E.D. Cal. Dec. 23, 2009) (emphasis added); *see also Anderson v. California*, No. 10 CV 2216 MMA (AJB), 2010 WL 4316996, at *1 (S.D. Cal. Oct. 27, 2010) ("[A]lthough only one filing fee needs to be paid per case, if multiple plaintiffs seek to proceed in forma pauperis, each plaintiff must qualify for IFP status.").

[2] There is no need for Plaintiff Foreman to re-file his prisoner trust account statement.