# UNITED STATES DISTRICT COURT 

EASTERN DISTRICT OF CALIFORNIA

SEAVON PIERCE,
Plaintiff,
v.

FRESNO FEDERAL COURT, et al.,
Defendants.

Case No. 1:16-cv-01281-JLT (PC)
FINDINGS AND RECOMMENDATIONS TO DISMISS BASED ON PLAINTIFF'S FAILURE TO OBEY COURT ORDER AND TO PAY FILING FEE
(Doc. 7)
30-DAY DEADLINE

Seavon Pierce filed this action on August 30, 2016. That same day Plaintiff filed an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (Doc. 2.)

A civil action may not proceed absent the submission of either the filing fee or an approved application to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. On November 23, 2016, the Court denied Plaintiff's application to proceed in forma pauperis because he had filed more than three frivolous actions in the past and did not meet the imminent danger of serious physical exception of 28 U.S.C. § $1915(\mathrm{~g})$ at the time this action was filed. (Doc. 7.) The Court ordered him to pay the $\$ 400.00$ filing fee within thirty days. (Doc. 7.) More than thirty days have passed and Plaintiff has failed to make payment.

Based on Plaintiff's ineligibility to proceed in forma pauperis and his failure to comply with the Court's order to pay the filing fee in full, dismissal of this action is appropriate. In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006);

Local Rule 110.
Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice for Plaintiff's failure to pay the $\$ 400.00$ filing fee.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 30 days after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

## IT IS SO ORDERED.

Dated: December 28, 2016
/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

