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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL S. JOHNSON,

Plaintiff,

No. CIV S-11-2749 MCE CKD

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On December 5, 2011, this court issued findings and recommendations recommending that this action be dismissed due to plaintiff’s failure to file an in forma pauperis affidavit or pay the appropriate filing fee. (Dkt. No. 6.) The next day, plaintiff’s motion to proceed in forma pauperis was docketed in this action. (Dkt. No. 7.) Plaintiff filed another motion to proceed in forma pauperis on January 24, 2012. (Dkt. No. 16.) As plaintiff clearly attempted to file his motion within the required time frame, the court will vacate its December 5, 2011 recommendation that this action be dismissed.

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

1 Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28
2 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to
3 collect an initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the
4 Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the
5 preceding month's income credited to plaintiff's prison trust account. These payments will be
6 forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's
7 account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The court's December 5, 2011 recommendation that this action be dismissed is
10 VACATED;

11 2. Plaintiff's request for leave to proceed in forma pauperis is granted;

12 3. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.
13 All fees shall be collected and paid in accordance with this court's order to the Director of the
14 California Department of Corrections and Rehabilitation filed concurrently herewith.

15 Dated: February 16, 2012

16 
17 CAROLYN K. DELANEY
18 UNITED STATES MAGISTRATE JUDGE

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