

1 **A. Strikes**

2 “[Section] 1915(g) should be used to deny a prisoner’s *IFP* status only when, after
3 careful evaluation of the order dismissing an action, and other relevant information, the
4 district court determines that the action was dismissed because it was frivolous, malicious
5 or failed to state a claim.” Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2005). “In some
6 instances, the district court docket records may be sufficient to show that a prior dismissal
7 satisfies at least one of the criteria under § 1915(g) and therefore counts as a strike.” Id. at
8 1120.

9 At least three of Plaintiff’s prior lawsuits qualify as “strikes” under § 1915(g):

- 10 (1) Eline v. Kaneshiro, 97-CV-937–ACK-FIY (D. Haw. Oct. 9,
 1997 judgment) (frivolous and failure to state a claim);
- 11 (2) Eline v. China Normalization Initiative, 97-CV-893–DAE-FIY
12 (D. Haw. Aug. 8, 1997 judgment) (failure to state a claim); and
- 13 (3) Eline v. Patterson Broadcasting, 97-CV-851-DAE-FIY (D. Haw.
 Aug. 8, 1997 judgment) (failure to state a claim).

14 See also Eline v. Tanaka, 08-CV-244-SOM-BMK (D. Haw. May 30, 2008 Order) (listing
15 Plaintiff’s three strikes, dismissing case pursuant to § 1915(g), and noting that “Plaintiff has
16 filed seventy-three other civil actions since 1993 in the federal district and appellate courts,
17 all of which were dismissed for various reasons, including failure to state a claim, failure to
18 prosecute, frivolousness, and failure to pay”); Eline v. Sedillo, 01-CV-262-PHX-RCB (MS)
19 (Jan. 7, 2002 Order) (listing Plaintiff’s three strikes and dismissing case pursuant to
20 § 1915(g)).

21 **B. Failure to Allege Imminent Danger of Serious Physical Injury.**

22 If a plaintiff has three or more strikes, he may not bring a civil action without
23 complete prepayment of the \$350.00 filing fee unless he is in imminent danger of serious
24 physical injury. 28 U.S.C. § 1915(g). Plaintiff brought this lawsuit without prepaying the
25 filing fee. Plaintiff does not allege that he is in imminent danger of serious physical injury
26 and his accusations would not support such an allegation.

1 Thus, the Court will dismiss without prejudice Plaintiff's Complaint and this action,
2 pursuant to 28 U.S.C. § 1915(g). If Plaintiff wishes to reassert these claims in the future, he
3 must *prepay* the **entire** \$350.00 filing fee when he files his action.

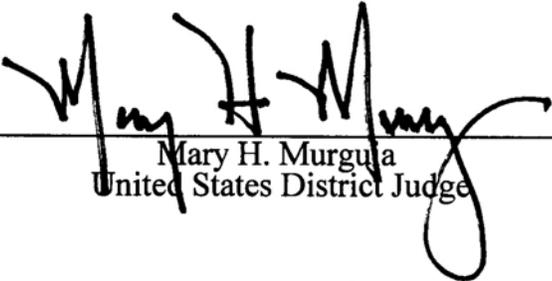
4 **IT IS ORDERED:**

5 (1) Plaintiff's Complaint (Doc. #1) and this action are **dismissed without**
6 **prejudice**, pursuant to 28 U.S.C. § 1915(g). If Plaintiff wishes to reassert these claims in the
7 future, he must prepay the entire \$350.00 filing fee when he files his action.

8 (2) The Clerk of Court must enter judgment accordingly and close this case.

9 DATED this 15th day of March, 2010.

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Mary H. Murgula
United States District Judge