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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

TAIDJE RAYBURN ROBINSON,  
Plaintiff,  
v.  
SANTA BARBARA COUNTY  
SHERIFFS OFFICE et al.,  
Defendants.

Case No. 2:16-CV-06287-ODW (SK)

**ORDER TO SHOW CAUSE  
WITHIN 21 DAYS RE:  
FAILURE TO PAY PARTIAL  
FILING FEE**

**I.**

**INTRODUCTION**

On March 24, 2016, Plaintiff, a prisoner in the custody of Santa Barbara County proceeding pro se with a civil rights complaint, was granted in forma pauperis status under 28 U.S.C. § 1915(b)(1). (CM/ECF Nos. 1, 4). The Court ordered Plaintiff to pay an initial partial filing fee of \$6.00 by no later than September 26, 2016, or face dismissal. To date, the Clerk of Court has not received payment. THEREFORE, within 21 days of the date of this Order, Plaintiff is ordered to show cause why his Complaint should not be dismissed for failure to pay the initial partial filing fee. If Plaintiff does not file a timely and satisfactory response to this Order, the Court will recommend dismissal of the Complaint.

1 **II.**

2 **DISCUSSION**

3 Under the Prison Litigation Reform Act (“PLRA”), a prisoner granted  
4 in forma pauperis status (“IFP”) must pay the full amount of the filing fee.  
5 *See* 28 U.S.C. § 1915(b)(1). If the prisoner is unable to pay the full filing fee,

6 The court shall assess and, when funds exist, collect, as a partial  
7 payment of any court fees required by law, an initial partial filing  
8 fee of 20 percent of the greater of—

9 (A) the average monthly deposits to the prisoner’s account; or

10 (B) the average monthly balance in the prisoner’s account for  
11 the 6-month period immediately preceding the filing of the  
12 complaint or notice of appeal.

13 *Id.* After paying the initial partial filing fee, the prisoner must make monthly  
14 payments toward the balance of the full filing fee equal to “20 percent of the  
15 preceding month’s income credited to the prisoner’s account,” to be  
16 forwarded by the custodial agency if the prisoner’s account balance exceeds  
17 \$10. *See* 28 U.S.C. § 1915(b)(2). Plaintiff cannot proceed with this cause of  
18 action until he has paid the initial partial filing fee or demonstrated why he  
19 lacks the funds to do so.

20 The PLRA’s “safety-valve” provision provides an exception to dismissal  
21 for an IFP prisoner’s failure to pay the initial partial filing fee, but only where  
22 the prisoner lacks available funds at the time payment is ordered. *See*  
23 *Taylor v. Delatoore*, 281 F.3d 844, 850 (9th Cir. 2002) (citing to 28 U.S.C. §  
24 1915(b)(4)). The Court may also consider the reason for the prisoner’s lack  
25 of available funds and dismiss the case where the prisoner’s failure to pay is  
26 due to the prisoner’s economic choices. *See Olivares v. Marshall*, 59 F.3d  
27 109, 112 (9th Cir. 1995) (dismissal upheld where prisoner depleted account  
28 by making “economic choices about how to spend his money, as between his  
filing fee and comforts purchased in the prison commissary”).

1 **III.**

2 **CONCLUSION**

3 Within 21 days of the date of this Order, Plaintiff is ordered to show  
4 cause why this action should not be dismissed for Plaintiff's failure to timely  
5 pay the initial partial filing fee. Plaintiff may discharge this order and avoid  
6 dismissal by submitting the initial partial filing fee. If Plaintiff claims that he  
7 no longer has the funds in his prison account to pay the initial partial filing  
8 fee, he must submit an updated copy of his prison trust statement showing  
9 his deposits, withdrawals, and balance for the past six months.

10 If Plaintiff does not file a timely and satisfactory response to this Order  
11 to Show Cause, the Court will recommend dismissal of the Complaint for  
12 failure to comply with a court order and failure to prosecute. *See Fed. R. Civ.*  
13 *P. 41(b); L.R. 41-1.*

14 **IT IS SO ORDERED.**

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17 DATED: October 18, 2016



18 STEVE KIM  
19 U.S. MAGISTRATE JUDGE  
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