

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW FRYE, JR.,)	NO. ED CV 15-1585-PSG(E)
)	
Plaintiff,)	
)	
v.)	ORDER OF DISMISSAL
)	
JOYCE ZOLDAK, et al.,)	
)	
Defendants.)	
)	

BACKGROUND

Plaintiff, a federal prisoner presently incarcerated at the Summit County Jail in Akron, Ohio, filed this civil rights action on August 5, 2015. The Complaint asserts claims against federal officials pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

On September 15, 2015, Plaintiff filed an "Application to Proceed Without Prepayment of Fees and Affidavit" ("Application"). On September 16, 2015, the Court issued an Order granting the

1 Application.

2
3 Under the Prison Litigation Reform Act (PLRA), Pub L. No. 104-
4 134, 110 Stat. 1321 (1996), a prisoner may not bring a civil action in
5 forma pauperis ("IFP") if, on three (3) or more previous occasions,
6 the prisoner has brought an action or appeal in a court of the United
7 States that was dismissed on the grounds that it was frivolous or
8 malicious or failed to state a claim upon which relief may be granted,
9 unless the prisoner is under imminent danger of serious physical
10 injury. 28 U.S.C. § 1915(g); see O'Neal v. Price, 531 F.3d 1146,
11 1153-54 (9th Cir. 2008).

12
13 In late September of 2015, sua sponte review of the dockets of
14 this Court and the United States District Court for the Eastern
15 District of California suggested that Plaintiff previously had filed a
16 number of federal actions qualifying as "strikes" under 28 U.S.C.
17 section 1915(g). Accordingly, on September 25, 2015, the Magistrate
18 Judge issued a Minute Order ordering Plaintiff to show cause in
19 writing why Plaintiff's in forma pauperis status should not be revoked
20 and why the action should not be dismissed pursuant to 28 U.S.C.
21 section 1915(g). On October 13, 2015, Plaintiff filed a document
22 titled "To Move In Forma Paupers," constituting Plaintiff's response
23 to the September 25 Minute Order.

24
25 On October 30, 2015, the Court issued an "Order Revoking In Forma
26 Pauperis Status," revoking Plaintiff's in forma pauperis status
27 pursuant to 28 U.S.C. section 1915(g) and ordering Plaintiff to pay
28 the full filing fee within twenty (20) days from the date of the Order

1 if Plaintiff wished to pursue the action. The Court advised
2 Plaintiff that failure timely to pay the full filing fee could result
3 in the dismissal of the action. Nevertheless, Plaintiff failed to pay
4 the full filing fee within the allotted time.

5
6 **ORDER**

7
8 For the foregoing reasons, the action is dismissed without
9 prejudice for failure to pay the full filing fee in conformity with
10 the Court's October 30, 2015 Order. See 28 U.S.C. § 1915(g).

11
12 IT IS SO ORDERED.

13
14 DATED: November 23, 2015.

15
16 

17
18 _____
PHILIP S. GUTIERREZ
UNITED STATES DISTRICT JUDGE

19 Presented this 23rd
20 day of November, 2015, by:

21
22 _____
23 /s/
CHARLES F. EICK
24 UNITED STATES MAGISTRATE JUDGE