

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. 5:17-CV-00513-GW (SK) Date March 23, 2017

Title Erlindo Rodriguez Jr. v. Robert Yglesias

Present: The Honorable Steve Kim, U.S. Magistrate Judge

Marc Krause

n/a

Deputy Clerk

Court Smart / Recorder

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

None present

None present

**Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE PAYMENT OF FILING FEE AND FAILURE TO STATE A CLAIM**

Plaintiff filed a civil rights complaint pursuant to 42 U.S.C. § 1983 (ECF No. 1), but it is subject to summary dismissal for two reasons. First, Plaintiff did not pay the filing fee or submit a Request to Proceed in Forma Pauperis. Without payment of the filing fee or being granted leave of Court to proceed in Forma Pauperis, this action cannot move forward.

Second, the complaint alleges that Defendant violated his Fourth Amendment Rights when he searched Plaintiff's prison cell and took Plaintiff's legal papers and other property. But such a claim is not cognizable under the Fourth Amendment because prisoners do not have a reasonable expectation of privacy in their prison cells. *See Hudson v. Palmer*, 468 U.S. 517, 526 (1984) ("the Fourth Amendment proscription against unreasonable searches does not apply within the confines of the prison cell"). Therefore, the complaint is subject to dismissal for failure to state a claim upon which relief may be granted. *See* 28 U.S.C § 1915A(b)(1).

THEREFORE, Plaintiff is ORDERED TO SHOW CAUSE on or before **April 21, 2017**, why this action should not be dismissed for failure to pay the filing fee and failure to state a claim. Plaintiff may discharge this Order to Show Cause by (1) paying the filing fee *or* submitting a completed Request to Proceed in Forma Pauperis, **AND** (2) filing an amended complaint that states a claim upon which relief may be granted.

**Plaintiff is advised that failure to file a timely response to this order will result in a recommendation that this action be dismissed for failure to prosecute and obey court orders and failure to state a claim.** *See* Fed. R. Civ. P. 41(b); Local Rule 41-1. If Plaintiff no longer wishes to pursue this action, Plaintiff may voluntarily dismiss the action pursuant to Federal Rule of Civil Procedure 41(a) by filing a "Notice of Dismissal." The Clerk is directed to attach a Notice of Dismissal Form (CV-009) to this Order.