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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

P. F. LAZOR,

Plaintiff,

v.

A. HEDGPETH, et al.,

Defendants.

CASE NO. 1:07-cv-00410-OWW-SMS PC

ORDER DENYING PLAINTIFF LEAVE TO PROCEED IN FORMA PAUPERIS, AND REQUIRING PLAINTIFF TO PAY \$350.00 FILING FEE IN FULL WITHIN THIRTY DAYS OR THIS ACTION WILL BE DISMISSED

(Doc. 1)

Plaintiff P. F. Lazor (“plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 14, 2007.

28 U.S.C. § 1915 governs proceedings in forma pauperis. Section 1915(g) provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” A review of the actions filed by plaintiff in this district reveals that plaintiff is subject to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis unless plaintiff is, at the time the complaint is filed, under imminent danger of serious physical injury.<sup>1</sup>

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<sup>1</sup> The Court takes judicial notice of case number 1:97-cv-06007-REC-DLB PC Lazor v. McCluskey, in which plaintiff was found to be subject to 1915(g) and in which defendants’ motion to dismiss on that ground was granted on March 28, 2003. (Docs. 81, 86.) In that case, the Court counted eleven district court cases and eight appellate court cases as qualifying strikes. Three such qualifying dismissals were 2:94-cv-00421-LKK-GGH PC Lazor v. Jakobosky, 2:94-cv-00476-LKK-JFM PC Lazor v. White, and 2:94-cv-00629-GEB-GGH PC Lazor v.

1 The Court has reviewed plaintiff's complaint and finds that plaintiff has alleged no facts that  
2 support a finding that he is, at this time, under imminent danger of serious physical injury. Although  
3 plaintiff alleges that he is under threat of possible death, plaintiff's complaint seeks a temporary  
4 restraining order prohibiting prison officials from administering a TB test to plaintiff on March 10,  
5 2007, and the basis of plaintiff's claim is that the TB test is a danger to him. Plaintiff's complaint  
6 is dated March 8, 2007, and was not received by the Court until March 14, 2007. In addition to the  
7 fact that the event plaintiff seeks to stop occurred prior to receipt of the complaint by the Court, there  
8 is no basis for concluding that the administration of a TB test constitutes imminent danger of serious  
9 physical injury, despite plaintiff's assertion to the contrary. Accordingly, plaintiff may not proceed  
10 in forma pauperis in this action, and must submit the appropriate filing fee in order to proceed with  
11 this action.

12 Based on the foregoing, it is HEREBY ORDERED that:

- 13 1. Pursuant to 28 U.S.C. § 1915(g), plaintiff is denied leave to proceed in forma  
14 pauperis in this action;
- 15 2. Plaintiff shall pay the \$350.00 filing fee in full within **thirty (30) days** from the date  
16 of service of this order; and
- 17 3. If plaintiff fails to pay the \$350.00 filing fee in full within thirty days, this action be  
18 dismissed, without prejudice.

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20 IT IS SO ORDERED.

21 **Dated: March 20, 2007**  
emm0d6

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE

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