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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HARVEY EUGENE LARSON,

Plaintiff,

vs.

1:08 CV 0685 OWW WMW PC

ORDER DISMISSING ACTION

WARDEN GONZALES, et al.,

Defendant.

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983.

On September 2, 2008, [findings and recommendations](#) were entered, recommending that Plaintiff's application to proceed in forma pauperis be denied pursuant to 28 U.S.C. § 1915(g), and Plaintiff be directed to pay the filing fee in full. On September 22, 2008, Plaintiff filed objections. On February 10, 2009, the findings and recommendations were adopted in full, denying Plaintiff's application to proceed in forma pauperis and directing Plaintiff to pay the \$350 filing fee, in full, within thirty days. On March 20 2009, Plaintiff filed a document titled as a Motion to Show Cause. On March 11 and 20, 2009, Plaintiff filed further objections.

In these submissions, Plaintiff essentially restates the allegations of the complaint, and makes unpersuasive legal arguments as to why 28 U.S.C. § 1915(g) is unconstitutional. Plaintiff, now incarcerated at the Substance Abuse Treatment Facility at Corcoran, brought this action

1 challenging the legality of his placement in Administrative Segregation while housed at CCI
2 Tehachapi. Plaintiff has not alleged any facts suggesting he is in imminent danger of serious
3 physical injury. He may not, therefore, proceed in forma pauperis.

4 Plaintiff has not paid the filing fee. Plaintiff has been denied leave to proceed in forma
5 pauperis pursuant to 28 U.S.C. § 1915(g). Therefore, Plaintiff may not proceed in forma
6 pauperis unless he has alleged facts indicating that he is in imminent danger of serious injury.
7 Plaintiff has not done so in this case. The January 25, 2008, order directing Plaintiff to pay the
8 filing fee cautioned Plaintiff that his failure to do so would result in dismissal of this action.

9 Accordingly, IT IS HEREBY ORDERED that this action is dismissed without prejudice
10 pursuant to Local Rule 11-110 for failure to pay the filing fee.

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14 IT IS SO ORDERED.

15 **Dated:** April 7, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE