

## UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,

CASE NO. 1:08-cv-01892-AWI-SMS PC

Plaintiff,

ORDER DISMISSING ACTION, WITHOUT  
PREJUDICE, PURSUANT TO 28 U.S.C. §  
1915(G)

v.

(Doc. 3)

STATE PRISON WARDEN  
A. SCRIBNER, et al.,

Defendants.

Plaintiff Tony Blackman (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On December 16, 2008, Plaintiff was denied leave to proceed in forma pauperis and ordered to pay the filing fee in full within fifteen days. 28 U.S.C. § 1915(g). More than fifteen days have passed and Plaintiff has not paid the filing fee or otherwise responded to the Court’s order.

Accordingly, this action is HEREBY DISMISSED, without prejudice, pursuant to section 1915(g).<sup>1</sup>

IT IS SO ORDERED.

Dated: January 28, 2009

/s/ Anthony W. Ishii  
CHIEF UNITED STATES DISTRICT JUDGE

<sup>1</sup> Plaintiff filed an amended complaint on December 24, 2008. Fed. R. Civ. P. 15(a). However, the submission of the amended complaint has no effect on the Court’s order finding Plaintiff ineligible to proceed in forma pauperis. Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007) (availability of imminent danger exception determined by conditions prisoner faced at the time of the filing of the complaint, and not at an earlier or later time).