

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BRIAN SCOTT SEEFELDT, CASE NO. 1:09-cv-235-MJS (PC)  
Plaintiff,  
v.  
ORDER DISMISSING CASE FOR FAILURE  
TO FILE APPLICATION TO PROCEED IN  
FORMA PAUPERIS OR PAY FILING FEE  
MERCY HOSPITAL, et al., (ECF No. 20)  
Defendants.  
CLERK TO ENTER JUDGMENT

Plaintiff Brian Scott Seefeldt, a former state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to the Magistrate Judge handling all matters in this action. (ECF No. 4.)

On July 14, 2010, the Court noted that Plaintiff had been released from prison before he was granted in forma pauperis status. (ECF No. 19.) The Court ordered Plaintiff to complete the non-prisoner IFP form and return it to the Court by August 25, 2010. Plaintiff was warned that failure to obey the Court's order could result in his case being dismissed for failure to prosecute.

On September 10, 2010, noting that Plaintiff failed to meet its deadline, the Court ordered Plaintiff to show cause as to why this action should not be dismissed for failure to submit an application to proceed in forma pauperis or pay the filing fee. (ECF No. 20.) Plaintiff was ordered to respond not later than October 1, 2010 and was warned that failure to do so would result in dismissal of this action.

To date, Plaintiff has failed to respond to the Court's Order to Show Cause. Plaintiff

1 has also failed to file an application to proceed in forma pauperis or pay the filing fee.

2 A civil action may not proceed absent the submission of either the filing fee or an  
3 application to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Because Plaintiff has  
4 submitted neither, and has not responded to the Court's repeated orders that he do so, it  
5 is within the Court's discretion to dismiss the case. In re Phenylpropanolamine (PPA)  
6 Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 11-110.

7 Accordingly, this action is HEREBY DISMISSED, without prejudice, pursuant to 28  
8 U.S.C. § 1915(g) and Local Rule 11-110.

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11 IT IS SO ORDERED.

12 Dated: October 8, 2010

13 /s/ *Michael J. Seng*  
14 UNITED STATES MAGISTRATE JUDGE  
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