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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RODNEY BLACKWELL,

Plaintiff,

v.

D. TAXDAHL, et al.,

Defendants.

CASE NO. 1:09-cv-00642-LJO-GSA PC

ORDER VACATING ORDER GRANTING
PLAINTIFF LEAVE TO PROCEED IN
FORMA PAUPERIS IN THIS ACTION AND
DIRECTING COLLECTION OF FILING FEE
FROM HIS TRUST ACCOUNT

(Doc. 9)

ORDER REQUIRING PLAINTIFF TO PAY
\$350.00 FILING FEE WITHIN THIRTY DAYS
OR THIS ACTION WILL BE DISMISSED

Plaintiff Rodney Blackwell, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 10, 2009. Plaintiff was granted leave to proceed in forma pauperis on May 6, 2009.

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.” Prior to the date he filed this action, Plaintiff sustained at least three strikes under section 1915(g), and is precluded from proceeding in forma pauperis unless he is, at the time

1 the complaint is filed, under imminent danger of serious physical injury.¹ Plaintiff's claims in this
2 action arise from the loss of his personal and legal property, and the handling of his inmate appeals.
3 Therefore, this action does not qualify for the imminent danger exception, and Plaintiff must submit
4 the appropriate filing fee in order to proceed with this action. Andrews v. Cervantes, 493 F.3d 1047,
5 1053 (9th Cir. 2007).

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

- 7 1. The order granting Plaintiff leave to proceed in forma pauperis in this action and
8 directing collection of the filing fee from his trust account is VACATED;
- 9 2. Plaintiff shall pay the \$350.00 filing fee in full within **thirty (30) days** from the date
10 of service of this order or this action will be dismissed, without prejudice; and
- 11 3. A copy of this order shall be served on (1) the Director of the California Department
12 of Corrections and Rehabilitation via the Court's electronic case filing system
13 (CM/ECF), and (2) the Financial Department, U.S. District Court, Eastern District
14 of California, Fresno Division.

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16 IT IS SO ORDERED.

17 **Dated: September 11, 2009**

17 **/s/ Lawrence J. O'Neill**
18 **UNITED STATES DISTRICT JUDGE**

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27 ¹ The Court takes judicial notice of case numbers 2:05-cv-01743-UA-MAN Blackwell v. Los Angeles
28 County, et al. (C.D. Cal.) (dismissed 04/04/2005 as for failure to state a claim); 2:08-cv-00791-UA-AGR Blackwell
v. Glick (C.D. Cal.) (dismissed 04/28/2008 for failure to state a claim); and 2:08-cv-05750-UA-AGR Blackwell v.
York (C.D. Cal.) (dismissed 10/06/2008 for failure to state a claim).