

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLOS D. HENDON, CASE NO. 1:09-cv-911-MJS (PC)
Plaintiff, ORDER DISMISSING CASE FOR FAILURE
v. TO PAY FILING FEE
BAROYA, et al., CLERK TO ENTER JUDGMENT
Defendants.

Plaintiff Carlos D. Hendon, a 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. 11.) On July 29, 2010, the Court issued an
order finding that Plaintiff was precluded from proceeding in forma pauperis in this action
pursuant to 28 U.S.C. § 1915(g) and ordering Plaintiff to pay the \$350.00 filing fee in full
within thirty days.¹ Plaintiff was warned that if he failed to pay the filing fee, this action
would be dismissed.

¹ 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.”

The following cases support the Court's finding that Plaintiff became subject to section 1915(g) prior to the date he filed this action: Hendon v. Witcher, 1:05-cv-1246-AWI-LDB (PC) (E.D. Cal., dismissed on August 6, 2007); Hendon v. Rogel, 2:05-cv-1063-DFL-PAN (PC) (E.D. Cal., dismissed on August 28, 2006); Hendon v. White, 2:07-cv-1825-GEB-CMK (PC) (E.D. Cal., dismissed on February 5, 2008).

1 More than thirty days have passed and Plaintiff has not paid the filing fee.
2 Accordingly, this action is HEREBY DISMISSED, without prejudice, pursuant to 28 U.S.C.
3 § 1915g.

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5 IT IS SO ORDERED.

6 Dated: September 10, 2010

/s/ Michael J. Seng
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UNITED STATES MAGISTRATE JUDGE