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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,

Plaintiff,

v.

KLIEWER, et al.,

Defendants.

1:09-cv-02233-OWW-GSA-PC

ORDER DENYING PLAINTIFF’S
APPLICATION TO PROCEED IN FORMA
PAUPERIS AND REQUIRING PLAINTIFF
TO PAY THE \$350.00 FILING FEE IN FULL
WITHIN 15 DAYS OR CASE WILL BE
DISMISSED

(Doc. 1.)

_____ /

Plaintiff Tony Blackman (“plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on December 24, 2009, along with an application to proceed in forma pauperis under 28 U.S.C. § 1915. (Doc. 1.)

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.” A review of the actions filed by plaintiff reveals that plaintiff is subject to 28

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1 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis unless plaintiff is, at the time
2 the complaint is filed, under imminent danger of serious physical injury.¹

3 Plaintiff alleges in the complaint that his rights to due process have been violated because he
4 has been denied written decisions on his prison appeals, a copy of his trust account statement, and
5 access to the law library so he can challenge his “false imprisonment.” The Court has reviewed
6 plaintiff’s complaint and finds that plaintiff has alleged no facts that support a finding that he is, at
7 this time, under imminent danger of serious physical injury. Accordingly, plaintiff may not proceed
8 in forma pauperis in this action, and must submit the appropriate filing fee in order to proceed with
9 this action.

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

- 11 1. Pursuant to 28 U.S.C. § 1915(g), plaintiff’s application to proceed in forma pauperis in
12 this action is denied;
- 13 2. Plaintiff shall pay the \$350.00 filing fee in full within **fifteen (15) days** from the date
14 of service of this order; and
- 15 3. If plaintiff fails to pay the \$350.00 filing fee in full within fifteen days, this action shall
16 be dismissed, without prejudice.

17 IT IS SO ORDERED.

18 **Dated: January 8, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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25 ¹The Court takes judicial notice of four prior civil actions brought by plaintiff challenging the conditions of his
26 confinement. All four actions were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may
27 be granted. *Blackman v. Hartwell, et al.*, 1:99-cv-05822-REC-HGB-P (Eastern District of California (“CAED”); dismissed March
28 12, 2001); 3:05-cv-05390-SI *Blackman v. Medina* (Northern District of California (“CAND”); dismissed March 13, 2006); 3:06-cv-06398-
SI *Blackman v. Variz* (CAND; dismissed December 18, 2006); and 1:04-cv-06389-AWI-NEW(DLB)- PC *Blackman v. Taxdahl* (CAED;
dismissed May 18, 2007).