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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GREGORY MCCLELLAN,
Plaintiff,

CASE NO. 1:10-cv-00105-LJO-DLB PC

v.

ORDER DISMISSING ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY FILING
FEE

YOUNGBLOOD, et al.,
Defendants.

ORDER FOR CLERK TO CLOSE CASE

_____ /

Order

Plaintiff Gregory McClellan (“Plaintiff”) is a prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff had initially been granted in forma pauperis status on January 21, 2010. On February 18, 2010, the Court revoked Plaintiff’s in forma pauperis status after court records revealed that Plaintiff had accumulated three strikes pursuant to 28 U.S.C. § 1915(g).¹ The Court ordered Plaintiff to pay the filing fee in full within 30 days or the action would be dismissed without prejudice.

Proceeding in forma pauperis is governed by 28 U.S.C. § 1915. 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,

¹ The three cases which counted as strikes pursuant to § 1915(g) were: *McClellan v. Mountain*, 1:08-cv-00256-LJO-GSA PC (E.D. Cal.) (dismissed for failure to state a claim on 03/05/2009); *McClellan v. Fink*, 1:08-cv-01326-YNP PC (E.D. Cal.) (dismissed for failure to state a claim on 04/01/2009); and *McClellan v. Haviland*, 1:07-cv-01607-OWW-SMS PC (E.D. Cal.) (dismissed for failure to state a claim on 10/19/2009).

1 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under
2 imminent danger of serious physical injury.”

3 Plaintiff has accrued three strikes pursuant to section 1915(g). Thus, Plaintiff may not
4 proceed in forma pauperis unless he is in imminent danger of physical injury. Plaintiff provides
5 no evidence that supports such a finding. There is no mention anywhere in Plaintiff’s complaint
6 that he is under imminent danger of physical injury.

7 On February 18, 2010, the Court ordered Plaintiff to submit the \$350.00 filing fee in full
8 within thirty days. Plaintiff was warned that the failure to obey the court’s order would result in
9 dismissal of this action. More than thirty days have passed, and Plaintiff has not paid the filing
10 fee.

11 Accordingly, it is HEREBY ORDERED that this action is DISMISSED without prejudice
12 based on Plaintiff’s failure to pay the \$350.00 filing fee. The Clerk is directed to close this case
13 in its entirety.

14 IT IS SO ORDERED.

15 **Dated:** April 12, 2010

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE