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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

HAROLD WALKER,

Plaintiff,

v.

M. STEVENS, et al.,

Defendants.

CASE NO. 1:10-cv-01073-OWW-SMS PC

ORDER FINDING PLAINTIFF INELIGIBLE  
TO PROCEED IN FORMA PAUPERIS  
PURSUANT TO 28 U.S.C. § 1915(G), AND  
REQUIRING PLAINTIFF TO SUBMIT \$350.00  
FILING FEE WITHIN THIRTY DAYS

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Plaintiff Harold Walker, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 15, 2010. Plaintiff neither paid the \$350.00 filing fee in full nor filed an application to proceed in forma pauperis. For the reasons set forth below, Plaintiff is ineligible to proceed in forma pauperis and must submit the filing fee in full within thirty days or this action will be dismissed.

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.” Plaintiff became subject to section 1915(g) on April 5, 2010, and is precluded from

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1 proceeding in forma pauperis unless he is, at the time the complaint is filed, under imminent danger  
2 of serious physical injury.<sup>1</sup>

3 The Court has reviewed Plaintiff's complaint and finds that Plaintiff does not meet the  
4 imminent danger exception.<sup>2</sup> Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because  
5 Plaintiff is not under imminent danger of serious physical injury, he is ineligible to proceed in forma  
6 pauperis in this action, and is precluded from proceeding on his complaint absent the submission of  
7 the filing fee in full.

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

- 9 1. Plaintiff is ineligible to proceed in forma pauperis in this action pursuant to 28 U.S.C.  
10 § 1915(g); and
- 11 2. Plaintiff shall submit the \$350.00 filing fee in full within **thirty (30) days** from the  
12 date of service of this order or this action will be dismissed, without prejudice.

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14 IT IS SO ORDERED.

15 **Dated: June 18, 2010**

16 /s/ Oliver W. Wanger  
17 UNITED STATES DISTRICT JUDGE

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25 <sup>1</sup> The Court takes judicial notice of case numbers 1:04-cv-06369-LJO-DLB PC Walker v. Pierce, et al.,  
26 (E.D.Cal.) (dismissed Mar. 4, 2009, for failure to state a claim); 1:08-cv-00164-OWW-DLB PC Walker v. Mimms,  
27 et al., (E.D.Cal.) (dismissed Jun. 3, 2009, for failure to state a claim); 1:09-cv-00931-YNP-GSA PC Walker v.  
Vazquez, et al., (E.D.Cal.) (dismissed Feb. 8, 2010, for failure to state a claim); and 1:09-cv-02098-SMS PC Walker  
v. California Dept. Of Corr. & Rehab., et al., (E.D.Cal.) (dismissed Apr. 5, 2010, for failure to state a claim).

28 <sup>2</sup> Plaintiff's claim in this action arises from the confiscation of his personal property at Kern Valley State  
Prison. The Court expresses no opinion on the merits of Plaintiff's claim.