

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ERIC JOHNSON,

1:10-cv-01087-LJO-GSA-PC

Plaintiff,

ORDER REVOKING PLAINTIFF'S IN  
FORMA PAUPERIS STATUS PURSUANT  
TO 28 U.S.C. § 1915(g)

v.

RAUL LOPEZ, et al.,

ORDER VACATING ORDER GRANTING  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS  
(Doc. 7.)

Defendants.

ORDER VACATING ORDER DIRECTING  
CDCR TO COLLECT FILING FEE  
PAYMENTS FOR THIS ACTION  
(Doc. 7.)ORDER DISMISSING ACTION, WITHOUT  
PREJUDICE TO REILING WITH  
SUBMISSION OF \$350.00 FILING FEE IN  
FULL

ORDER FOR CLERK TO CLOSE CASE

Plaintiff Eric Johnson, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 16, 2010. (Doc. 1.) On July 6, 2010, Plaintiff submitted an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (Doc. 6.) On July 9, 2010, the Court granted Plaintiff's application. (Doc. 7.)

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

1 facility, brought an action or appeal in a court of the United States that was dismissed on the grounds  
2 that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the  
3 prisoner is under imminent danger of serious physical injury.” Plaintiff is subject to section 1915(g)  
4 and is precluded from proceeding in forma pauperis unless he is, at the time the complaint is filed,  
5 under imminent danger of serious physical injury.<sup>1</sup>

6 The Court has reviewed Plaintiff’s complaint and finds that Plaintiff does not meet the  
7 imminent danger exception.<sup>2</sup> Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because  
8 Plaintiff alleges no facts supporting a finding that he is under imminent danger of serious physical  
9 injury, Plaintiff is ineligible to proceed in forma pauperis in this action.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. Plaintiff’s in forma pauperis in this action is REVOKED;
- 12 2. The Court’s order granting Plaintiff’s application to proceed in forma pauperis,  
13 entered on July 9, 2010, is VACATED;
- 14 3. The Court’s order directing payment of the inmate filing fee by the CDCR, entered  
15 on July 9, 2010, is VACATED;
- 16 4. This action is DISMISSED, without prejudice to refile with the submission of the  
17 \$350.00 filing fee in full;
- 18 5. The Clerk is directed to CLOSE this case; and
- 19 6. The Clerk is directed to SERVE a copy of this order on the Director of the CDCR,  
20 via the Court’s electronic case filing system.

21 IT IS SO ORDERED.

22 **Dated: December 14, 2010**

23 **/s/ Lawrence J. O'Neill**  
24 **UNITED STATES DISTRICT JUDGE**

25 <sup>1</sup> The Court takes judicial notice of case numbers 2:94-cv-01616-DFL-GGH PC Johnson v. State of  
26 California (E.D. Cal.) (dismissed 07/26/1995 for failure to state a claim); 2:94-cv-01146-EJG-GGH PC Johnson v.  
27 Briscoe, et al. (E.D. Cal.) (dismissed 08/17/1995 for failure to state a claim). and 2:94-cv-01925-WBS-GGH PC  
Johnson v. Bonaccorso, et al. (E.D. Cal.) (dismissed 09/08/1995 for failure to state a claim).

28 <sup>2</sup> This action involves the claim that Plaintiff was arbitrarily imposed three separate SHU terms for the same  
rule violation, in violation of the California Code of Regulations.