

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHARLES T. DAVIS,

Plaintiff,

v.

CLARK J. KELSO, et al.,

Defendants.

Case No. 1:10-cv-01184-LJO-SAB-(PC)

ORDER VACATING ORDER REVOKING
PLAINTIFF'S IN FORMA PAUPERIS STATUS
(ECF No. 42.)ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY CALIFORNIA
DEPARTMENT OF CORRECTIONS

Plaintiff Charles T. Davis ("Plaintiff") is a prisoner proceeding pro se pursuant to 42 U.S.C. § 1983. On October 19, 2011, the Court issued an order revoking Plaintiff's status to proceed in forma pauperis based on the fact that he had at least three strikes under 28 U.S.C. § 1915(g) prior to filing his complaint. (ECF No. 42.) On December 30, 2011, Plaintiff appealed to the Ninth Circuit Court of Appeals. (ECF No. 47.) On March 25, 2013, the Ninth Circuit vacated the order and remanded to this Court to assess whether Valley Fever is a serious health condition and whether Plaintiff sufficiently alleged a serious and ongoing risk of contracting it at the time he filed his complaint. (ECF No. 56.) The Court finds that Valley Fever is a serious health condition and that Plaintiff did sufficiently allege a serious risk at the time he filed his complaint. Accordingly, the Court's October 19, 2011 order is vacated and Plaintiff shall be

1 allowed to proceed in this matter in forma pauperis.

2 Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C.
3 § 1915(b)(1). Plaintiff is obligated to make monthly payments in the amount of twenty percent of
4 the preceding month's income credited to Plaintiff's trust account. The California Department of
5 Corrections is required to send to the Clerk of the Court payments from Plaintiff's account each
6 time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full. 28
7 U.S.C. § 1915(b)(2).
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9 Accordingly, it is hereby ORDERED that:

- 10 1. The Court's October 19, 2011 order revoking Plaintiff's status to proceed
11 in forma pauperis is hereby VACATED;
- 12 2. The Director of the California Department of Corrections or his designee
13 shall collect payments from Plaintiff's prison trust account in an amount
14 equal to twenty per cent (20%) of the preceding month's income credited
15 to the prisoner's trust account and shall forward those payments to the
16 Clerk of the Court each time the amount in the account exceeds \$10.00, in
17 accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350.00 has been
18 collected and forwarded to the Clerk of the Court. The payments shall be
19 clearly identified by the name and number assigned to this action.
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- 21 3. The Clerk of the Court is directed to serve a copy of this order and a copy
22 of Plaintiff's in forma pauperis application on the Director of the California
23 Department of Corrections, via the court's electronic case filing system
24 (CM/ECF).
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- 26 4. The Clerk of the Court is directed to serve a copy of this order on the
27 Financial Department, U.S. District Court, Eastern District of California,
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1 Fresno Division.

- 2 5. Within sixty (60) days of the date of service of this order, Plaintiff shall
3 submit a certified copy of his prison trust account statement for the six-
4 month period immediately preceding the filing of the complaint, if Plaintiff
5 has not already done so.
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9 IT IS SO ORDERED.

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11 Dated: April 9, 2013

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UNITED STATES MAGISTRATE JUDGE