

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ISABEL TUBACH, CASE NO. 1:10-cv-1340-AWI-MJS (PC)

Plaintiff,
1.,
Defendants.

ORDER DENYING PLAINTIFF'S MOTION
FOR LEAVE TO PROCEED IN FORMA
PAUPERIS, AND REQUIRING PLAINTIFF TO
PAY \$350.00 FILING FEE IN FULL WITHIN
THIRTY DAYS, OR DISMISSAL WILL
OCCUR

(Doc. 2)

Plaintiff Isabel Tubach (“Plaintiff”), a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 26, 2010. Plaintiff seeks leave to proceed in forma pauperis.

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 § 1915(g) and is precluded from proceeding in forma pauperis unless Plaintiff is, at the time the

1 complaint is filed, under imminent danger of serious physical injury.¹

2 The Court has reviewed Plaintiff's complaint and finds that Plaintiff does not meet the
3 imminent danger exception.² Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because
4 Plaintiff has alleged no facts that support a finding that she is under imminent danger of serious
5 physical injury, Plaintiff is ineligible to proceed in forma pauperis in this action, and must submit
6 the appropriate filing fee in order to proceed with this action.

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

- 8 1. Plaintiff's motion for leave to proceed in forma pauperis in this action is denied; and
9 2. Plaintiff shall pay the \$350.00 filing fee in full within **thirty (30) days** from the date
10 of service of this order or this action will be dismissed, without prejudice.

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12 IT IS SO ORDERED.

13 Dated: August 2, 2010

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CHIEF UNITED STATES DISTRICT JUDGE

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1 The Court takes judicial notice of the following cases filed by Plaintiff: Tubach v. Davis, et al., 1:03-cv-
5182-OWW-SMS (E.D. Cal., dismissed as frivolous on June 12, 2003); Tubach v. Eby, et al., 1:02-cv-6023-REC-
TAG (E.D. Cal., dismissed as frivolous on March 31, 2004); Tubach v. Davis, et al., 1:03-cv-5012-OWW-SMS
(E.D. Cal., dismissed as frivolous on June 20, 2003).

2 Plaintiff's allegations concern the adequacy of her medical care but do not allege that she is in imminent
danger of serious physical injury. See Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).