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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEITH THOMAS,

1:10-cv-01759-LJO-GSA-PC

Plaintiff,

ORDER FINDING PLAINTIFF INELIGIBLE TO PROCEED IN FORMA PAUPERIS IN THIS ACTION, AND REQUIRING PLAINTIFF TO PAY \$350.00 FILING FEE IN FULL WITHIN THIRTY DAYS OR THIS ACTION WILL BE DISMISSED

vs.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al.,

Defendants.

Keith Thomas (“Plaintiff”), is a prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on September 24, 2010. (Doc. 1.)

Section 1915 of Title 28 of the United States Code 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 has had three or more actions dismissed as frivolous, malicious, or for failing to state a claim upon which relief may be granted.¹

¹ The court takes judicial notice of 1:99-cv-06339-AWI-DLB-PC Thomas v. Garvin (E.D. Cal.) (dismissed for failure to state a claim on 03/28/2000), 1:00-cv-05345-AWI-LJO-PC Thomas v. Galaza (E.D. Cal.) (dismissed as frivolous on 06/23/2000), 1:99-cv-06553-AWI-HGB-PC Thomas v. Kim (E.D. Cal.) (dismissed for failure to state a claim on 08/29/2000), 1:00-cv-05497-AWI-DLB-PC Thomas v. Gomez (E.D. Cal.) (dismissed for failure to state a claim on 09/11/2000), 1:00-cv-05348-OWW-LJO-PC Thomas v. Gomez (E.D. Cal.) (dismissed for failure to state a claim on 11/14/2000), and 1:00-cv-05349-OWW-DLB-PC Thomas v. Lopez (E.D. Cal.) (dismissed for failure to state a claim on 12/20/2000).

1 Thus, Plaintiff is subject to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis
2 unless Plaintiff is, at the time the complaint is filed, under imminent danger of serious physical
3 injury.

4 Plaintiff has alleged no facts in this action that support a finding that he was, at the time the
5 complaint was filed, under imminent danger of serious physical injury. Therefore, Plaintiff may not
6 proceed in forma pauperis in this action, and must submit the appropriate filing fee in order to
7 proceed with this action.

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

- 9 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is ineligible to proceed in forma pauperis
10 in this action;
- 11 2. Plaintiff shall submit the \$350.00 filing fee in full within **thirty (30) days**; and
- 12 3. If Plaintiff fails to pay the \$350.00 filing fee in full within thirty days, this action will
13 be dismissed, without prejudice.

14 IT IS SO ORDERED.

15 **Dated: September 27, 2010**

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