

1 pauperis unless he is, at the time the complaint is filed, under
2 imminent danger of serious physical injury.¹

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

10 Accordingly, it is HEREBY ORDERED that Plaintiff's motion to
11 proceed in forma pauperis, filed October 14, 2010, is DENIED.
12 Plaintiff is required to pay the \$350.00 filing fee in full
13 within **twenty-one (21) days** from the date of service of this
14 order. Failure to timely pay the filing fee will result in
15 dismissal of this action without prejudice.

16 IT IS SO ORDERED.

17 **Dated: October 21, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

21
22 ¹ The Court takes judicial notice of the qualifying cases: *Johnson v.*
23 *William L. McKinney, et al.*, 2:04-cv-4080-UA-CW (C.D. Cal.) (dismissed June
24 *al.*, 2:07-cv-8018-UA-CW (C.D. Cal.) (dismissed January 30, 2008 for failure to
25 state a claim and as frivolous); *Johnson v. Cannon, et al.*, 1:08-cv-0046-AWI-
26 GSA (E.D. Cal.) (dismissed April 5, 2010 for failure to state a claim).

27 Plaintiff also has dismissals for two other actions: *Johnson, et al. v.*
28 *Brown & Williamson, et al.*, 2:97-cv-5335-DT-BQR (C.D. Cal.) (dismissed
December 5, 1997), and *Johnson v. Rocha, et al.*, 4:02-cv-00384-SBA (N.D. Cal.)
(dismissed December 22, 2003). It is unclear why these two cases were
dismissed. They were thus not counted strikes pursuant to 28 U.S.C. §
1915(g).

² Plaintiff's claims in this action arise from an alleged violation of
the Equal Protection Clause of the Fourteenth Amendment. The Court expresses
no opinion on the merits of Plaintiff's claims.