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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALPHEOUS E. GORDON,

CASE NO. 1:11-cv-000216-OWW-SMS PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION
FOR LEAVE TO PROCEED IN FORMA
PAUPERIS, AND DISMISSING ACTION,
WITHOUT PREJUDICE TO REILING WITH
SUBMISSION OF \$350.00 FILING FEE IN
FULL

v.

FRESNO COUNTY JAIL,

Defendant.

(ECF Nos. 1 and 2)

_____ /

Plaintiff Alpheous E. Gordon, a prisoner proceeding pro se this civil rights action pursuant to 42 U.S.C. § 1983, filed a [complaint](#) on February 15, 2011. Plaintiff seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. On February 15, 2011, the Magistrate Judge issued an [order to show cause](#) why Plaintiff’s application to proceed in forma pauperis should not be denied. Plaintiff was given thirty days to respond. More than thirty days have passed and Plaintiff has failed file a response.

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 is subject to section 1915(g) and is precluded from proceeding in forma pauperis unless he is, at the time the complaint is filed,

1 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. Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because
4 Plaintiff alleges no facts supporting a finding that he is under imminent danger of serious physical
5 injury, Plaintiff is ineligible to proceed in forma pauperis in this action.

6 Accordingly, it is HEREBY ORDERED that:

- 7 1. Plaintiff's motion for leave to proceed in forma pauperis in this action is denied; and
- 8 2. This action is dismissed, without prejudice, for refile with the submission of the
9 \$350.00 filing fee in full.

10 IT IS SO ORDERED.

11 **Dated: March 28, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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27 ¹ The Court takes judicial notice of Gordon v. Fresno County Jail, No. 1:07-cv-01480-OWW-MJS
28 (dismissed September 23, 2009, for failure to state a claim); Owen v. Fresno County Jail, No. 1:07-cv-01555-LJO-
GSA (dismissed August 7, 2009, for failure to state a claim, court records indicate that Plaintiff is also known as
Orville Owen); and Gordon v. P.S.I., No. 1:09-cv-00228-OWW (dismissed February 11, 2009, as frivolous).