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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL GONZALES,

Plaintiff,

v.

RAY CORTEZ, et al.,

Defendants.

CASE NO. 1:11-CV-00618-LJO-DLB PC

ORDER DISMISSING ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY FILING
FEE

Michael Gonzales (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation, proceeding pro se. Plaintiff filed a civil rights complaint on April 18, 2011. Doc. 1.

The Prison Litigation Reform Act provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more 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.” 28 U.S.C. § 1915(g).

Court records reveal that pursuant to 28 U.S.C. § 1915(g), Plaintiff is ineligible to proceed in forma pauperis and is required to submit the filing fee in full in order to proceed with this action. The Court takes judicial notice of the following cases that qualify as strikes pursuant to 28 U.S.C. § 1915(g): *Gonzales v. Galaza, et al.*, Case No. 1:00-cv-06028-AWI-HGB PC (E.D. Cal.) (dismissed June 15, 2001 for failure to state a claim); *Gonzales v. Gadsden, et al.*, Case No.

1 1:04-cv-05491-OWW-LJO PC (E.D. Cal.) (dismissed December 11, 2006 for failure to state a
2 claim); *Gonzales v. Vikjord, et al.*, Case No. 1:06-cv-01568-OWW-WMW PC (E.D. Cal.)
3 (dismissed July 8, 2008 for failure to state a claim); *Gonzales v. Yamat, et al.*, Case No. 1:05-cv-
4 00550-AWI-DLB PC (E. D. Cal.) (dismissed August 15, 2008 for failure to state a claim);
5 *Gonzales v. Fresura, et al.*, Case No. 1:07-cv-00565-OWW-GSA PC (E.D. Cal.) (dismissed
6 February 3, 2009 for failure to state a claim); *Gonzales v. Price*, 1:07-cv-01391-AWI-SMS PC
7 (E.D. Cal.) (dismissed. February 18, 2010 for failure to state a claim).

8 Plaintiff's complaint alleges that prison officials used excessive force on him. Plaintiff is
9 not under imminent danger of serious physical injury, and is required to pay the \$350.00 filing
10 fee before proceeding.

11 Accordingly, it is HEREBY ORDERED that this action is DISMISSED without prejudice
12 for failure to pay the filing fee. The Clerk of the Court is directed to close this action.

13 IT IS SO ORDERED.

14 **Dated:** May 4, 2011

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