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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

TAHEE ABDUL RASHEED  
aka JAMES E. SMITH,

Plaintiff,

v.

A. LOPEZ, et al.,

Defendants.

1:11-cv-00627-LJO-GSA-PC

ORDER FINDING PLAINTIFF INELIGIBLE  
TO PROCEED IN FORMA PAUPERIS IN  
THIS ACTION AND DISMISSING ACTION,  
WITHOUT PREJUDICE TO REILING WITH  
SUBMISSION OF \$350.00 FILING FEE IN  
FULL

ORDER FOR CLERK TO CLOSE CASE

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Plaintiff Tahee Abdul Rasheed aka James E. Smith, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 20, 2011.<sup>1</sup> (Doc. 1.) Plaintiff has not paid the \$350.00 filing fee for this action or submitted an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

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

<sup>1</sup>Plaintiff has filed numerous civil actions at this Court using the names James E. Smith, Tahee Abdul Rasheed, and/or Tahee Abd’ Rasheed and prison I.D. number J-74120.

1 prisoner is under imminent danger of serious physical injury.” Plaintiff is subject to section 1915(g)  
2 and is precluded from proceeding in forma pauperis unless he is, at the time the complaint is filed,  
3 under imminent danger of serious physical injury.<sup>2</sup>

4 The Court has reviewed Plaintiff’s Complaint and finds that Plaintiff does not meet the  
5 imminent danger exception.<sup>3</sup> Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because  
6 Plaintiff alleges no facts supporting a finding that he is under imminent danger of serious physical  
7 injury, Plaintiff is ineligible to proceed in forma pauperis in this action.

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. Plaintiff is ineligible to proceed in forma pauperis in this action;
- 10 2. This action is DISMISSED, without prejudice to refile with the submission of the  
11 \$350.00 filing fee in full; and
- 12 5. The Clerk is directed to CLOSE this case.

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14 IT IS SO ORDERED.

15 **Dated: April 21, 2011**

15 **/s/ Lawrence J. O’Neill**  
16 **UNITED STATES DISTRICT JUDGE**

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25 <sup>2</sup> The Court takes judicial notice of 1:07-cv-00509-LJO-SMS Smith v. John/Jane Does, et al. (E.D. Cal.)  
26 (dismissed for frivolousness, maliciousness, and failure to state a claim on 05/04/2007), 1:06-cv-00310-AWI-LJO  
27 Smith v. Scribner, et al. (E.D. Cal.) (dismissed for failure to state a claim on 05/09/2007), 1:07-cv-00531-AWI-SMS  
28 Smith v. Social Security Administrative Office, Employees (E.D. Cal.) (dismissed for failure to state a claim on  
05/09/2007), and 1:06-cv-01434-LJO-LJO Smith v. Board of Prison Term Personnel, et al. (E.D. Cal.) (dismissed  
for failure to state a claim on 08/16/2007).

<sup>3</sup> Plaintiff’s allegations concern issues with Plaintiff’s ability to access the funds in his prison trust account.  
Doc. 1.) The Complaint is devoid of any showing that Plaintiff was under imminent danger of serious physical  
injury at the time he filed the Complaint. Id.