

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FREDRICK OWENS, JR.,

Plaintiff,

v.

R.H. TRIMBLE, et al.,

Defendants.

Case No. 1:11-cv-01540-LJO-MJS (PC)

**ORDER DISMISSING ACTION FOR
PLAINTIFF'S FAILURE TO PAY FILING
FEE**

(ECF No. 20)

CLERK TO CLOSE CASE

Plaintiff Fredrick Owens, Jr. is a state prisoner proceeding pro se in this civil rights action filed on September 13, 2011 pursuant to 42 U.S.C § 1983. (ECF Nos. 1, 4.)

This matter arose during Plaintiff's incarceration at Pleasant Valley State Prison ("PVSP"). It proceeds on his First Amended Complaint charging Defendants Trimble, PVSP Warden, and Igbiosa, California Department of Corrections and Rehabilitation Medical Director with having subjected Plaintiff to inhumane conditions of confinement, namely exposing Plaintiff to Valley Fever infection. (ECF No. 11.) Valley Fever, also known as coccidioidomycosis, is a serious infectious disease contracted by inhalation of an airborne fungus.

Defendants sought, and the Court granted, revocation of Plaintiff's in forma pauperis status pursuant to 28 U.S.C. § 1915(g). Plaintiff was barred from proceeding in forma pauperis because he had three prior actions dismissed on the grounds that they were

1 frivolous, malicious, or failed to state a claim upon which relief could be granted. The facts
2 alleged in this case failed to satisfy the exception set out in § 1915(g).

3 On May 30, 2013, the Magistrate Judge recommended that Plaintiff's in forma
4 pauperis status be revoked pursuant to 28 U.S.C. § 1915(g), and Plaintiff be directed to
5 submit the filing fee for this action. (ECF No. 19.) On July 3, 2013, the District Court
6 adopted the findings and recommendations, and ordered Plaintiff to submit the \$400.00
7 filing fee, in full, within fourteen days. (ECF No. 20.) Plaintiff was specifically cautioned that
8 his failure to do so would result in dismissal of this action. (Id.) Local Rule 110. The
9 fourteen day period has passed, and Plaintiff has not submitted the filing fee.

10 Accordingly, IT IS HEREBY ORDERED that this action is dismissed, without
11 prejudice, pursuant to Local Rule 110 for Plaintiff's failure to prosecute. The Clerk is
12 directed to close this case.

13
14
15 IT IS SO ORDERED.

16 Dated: July 30, 2013

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