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7	UNITED STA	ATES DISTRICT COURT
8	EASTERN DIS	STRICT OF CALIFORNIA
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10	TONIE ELMORE,) 1:12-cv-00335-GSA-PC
11	Plaintiff,) ORDER REVOKING IN FORMA) PAUPERIS STATUS
12	vs.) ORDER VACATING ORDER
13	C/O CAMPOS, et al.,) GRANTING APPLICATION TO) PROCEED IN FORMA PAUPERIS
14) (Doc. 4.)
15	Defendants.	 ORDER VACATING ORDER DIRECTING CDC TO COLLECT FILING
16) FEE PAYMENTS FOR THIS ACTION (Doc. 4.)
17 18) ORDER FOR PLAINTIFF TO PAY \$350.00 FILING FEE WITHIN THIRTY
19) DAYS, OR CASE WILL BE DISMISSED
20	I. BACKGROUND	_
21	Tonie Elmore ("Plaintiff"), is a state prisoner proceeding pro se and in forma pauperis in this	
22	civil rights action pursuant to 42 U.S.C. § 1983.	
23	Plaintiff filed this action on March 5, 2012. (Doc. 1.) On March 8, 2012, the Court granted	
24	Plaintiff leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 and directed the California	
25	Department of Corrections to withdraw fund	s from Plaintiff's prison trust account to pay the filing fee
26	for this action. (Doc. 4.) On March 19, 2012, Plaintiff consented to Magistrate Judge jurisdiction in this	
27	action, and no other parties have made an appearance. (Doc. 5.) Therefore, pursuant to Appendix	
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A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and
 all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule
 Appendix A(k)(3).

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II.

THREE STRIKES PROVISION

5 The Prison Litigation Reform Act governs proceedings in forma pauperis. 28 U.S.C. 1915. Section 1915(g) provides that "[i]n no event shall a prisoner bring a civil action . . . under this section 6 7 if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought 8 an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, 9 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under 10 imminent danger of serious physical injury." Plaintiff became subject to section 1915(g) on November 11 2, 2000, and is precluded from proceeding in forma pauperis unless he is, at the time the complaint is 12 filed, under imminent danger of serious physical injury.¹

The Court has reviewed Plaintiff's complaint and finds that Plaintiff does not meet the imminent danger exception.² <u>Andrews v. Cervantes</u>, 493 F.3d 1047, 1053 (9th Cir. 2007). Because Plaintiff was not under imminent danger of serious physical injury at the time he filed the complaint, he is ineligible to proceed in forma pauperis in this action and must submit the appropriate filing fee in order to proceed with this action.³

18 **III. (**

CONCLUSION

Based on the foregoing, it is HEREBY ORDERED that:

Pursuant to 28 U.S.C. § 1915(g), Plaintiff is ineligible to proceed in forma pauperis in
 this action, and Plaintiff's in forma pauperis status is REVOKED;

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²Plaintiff's claim in this action arises from allegations that he was denied access to the law library. The Court expresses no opinion on the merits of Plaintiff's claims.

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³To date, no payments for the filing fee have been received in this action.

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¹The Court takes judicial notice of case numbers: 3:00-cv-01275-CRB <u>Elmore v. Clark, et al.</u> (N.D. Cal.) (dismissed 08/25/2000 for failure to state a claim); 3:00-cv-02269-CRB <u>Elmore v. Lamarque.</u> (N.D. Cal.) (dismissed 11/02/2000 for failure to state a claim); and 3:00-cv-02929-CRB <u>Elmore v. Salinas Valley State Prison</u> (N.D. Cal.) (dismissed 08/25/2000 for failure to state a claim).

1	2.	The court's order of March 8, 2012, which granted Plaintiff's application to proceed in	
2		forma pauperis, is VACATED;	
3	3.	The court's order of March 8, 2012, which directed the California Department of	
4		Corrections to make payments to the Court from Plaintiff's prison trust account for	
5		payment of the filing fee for this action is VACATED;	
6	4.	Plaintiff shall submit the \$350.00 filing fee in full within thirty (30) days;	
7	5.	The Clerk of Court is directed to serve a copy of this order on:	
8		(1) the Director of the California Department of Corrections, and	
9		(2) the Financial Department, U.S. District Court, Eastern District of California,	
10		Fresno Division; and	
11	6.	If Plaintiff fails to pay the \$350.00 filing fee in full within thirty days, this action will be	
12		dismissed, without prejudice.	
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	IT IS SO ORDERED.		
14	11 15	So ondered.	
14 15		September 7, 2012 /s/ Gary S. Austin	
15		September 7, 2012 /s/ Gary S. Austin	
15 16		September 7, 2012 /s/ Gary S. Austin	
15 16 17		September 7, 2012 /s/ Gary S. Austin	
15 16 17 18		September 7, 2012 /s/ Gary S. Austin	
15 16 17 18 19		September 7, 2012 /s/ Gary S. Austin	
15 16 17 18 19 20		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 22 		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 22 23 		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 22 23 24 		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 22 23 24 25 		September 7, 2012 /s/ Gary S. Austin	
 15 16 17 18 19 20 21 22 23 24 25 26 		September 7, 2012 /s/ Gary S. Austin	