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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KIRELL TAYLOR,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,

Defendants.

CASE NO. 1:12-cv-01990-AWI-BAM PC

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

(ECF Nos. 1 and 2)

Plaintiff Kirell Taylor, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 6, 2012. Plaintiff seeks leave 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 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, under imminent danger of serious physical injury.<sup>1</sup>

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<sup>1</sup> Plaintiff also goes by the name of Kirell Francis Bettis and Sadeeq Abdul Al-Haqq. The Court takes judicial notice of case numbers 2:02-cv-05071-UA-CT (C.D. Cal.) Taylor v. United States of America (dismissed on 8/12/02 as frivolous); 3:05-cv-01147-JSW (N.D. Cal.) Bettis v. Walsh (dismissed on 5/18/05 for failure to state a claim); 2:09-cv-00788-UA-CT (C.D. Cal.) Bettis v. Tillie-Moore (dismissed on 2/11/09 as frivolous); 2:09-cv-01544-UA-CT (C.D. Cal.) (dismissed on 4/13/09 as frivolous); 1:09-cv-00949-LJO-SMS (E.D. Cal.) Bettis-Taylor v. Twentieth Century Fox (dismissed on 7/2/09 for failure to state a claim); 1:08-cv-1561-AWI-GSA (E.D. Cal.) Taylor v. Blackstone (dismissed on 9/11/09 for failure to state a claim); 2:10-cv-00682-UA-DUTY (C.D. Cal.) Bettis v. Clinton (dismissed 3/1/10 for failure to state a claim); and 1:10-cv-01892-LJO-JLT (E.D. Cal.) Taylor v. U.S. Department of State (dismissed on 11/3/10 for failure to state a claim).


1 The Court has reviewed Plaintiff's complaint and finds that Plaintiff does not meet the  
2 imminent danger exception.<sup>2</sup> Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Because  
3 Plaintiff alleges no facts supporting a finding that he is under imminent danger of serious physical  
4 injury, Plaintiff is ineligible to proceed in forma pauperis in this action.

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6 Accordingly, it is HEREBY ORDERED that:

- 7 1. Plaintiff's motion for leave to proceed in forma pauperis in this action is denied;
- 8 2. All pending motions are terminated; and
- 9 3. This action is dismissed, without prejudice to refile with the submission of the  
10 \$350.00 filing fee in full.

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12 IT IS SO ORDERED.

13 Dated: December 11, 2012

  
14 UNITED STATES DISTRICT JUDGE

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23 <sup>2</sup> Plaintiff brings this suit for violation of his First Amendment right to free speech and alleges retaliation.  
24 Plaintiff's claims involve his mail, a publication that he wishes to market, and digital storefronts he wishes to use to  
25 distribute his manuscript. In an attempt to establish imminent danger Plaintiff states that he had a mild heart attack  
26 on April 17, 2011, and was not given adequate medication until days later. (Compl. 27, ECF No. 1.) Plaintiff  
27 alleges that he suffers from "severe dangerous panic attacks, extreme abnormal hypertension if not treated by high  
28 blood pressure medication, daily anxiety and back spasms from lack of attending the recreational yard throughout the  
years in an effort to prevent defendants from intentionally destroying plaintiff's various designs of startup  
corporations and inventions, among other things." (Id. at 28.) Plaintiff claims that arguing with staff is detrimental  
to his physical health. (Id.) Neither the lack of medical treatment in 2011, or Plaintiff's speculation that he might  
suffer a heart attack because of his health risks are sufficient to allege that Plaintiff was in imminent danger at the  
time that he filed the complaint in this action.