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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,

CASE NO. 1:13-cv-00451-LJO-SKO PC

Plaintiff,

ORDER DISMISSING ACTION, WITHOUT
PREJUDICE, PURSUANT TO 28 U.S.C. §
1915(G) AND DIRECTING CLERK OF
COURT TO ENTER JUDGMENT

v.

BILL WITTMAN, et al.,

(Doc. 1)

Defendants.

Plaintiff Matthew B. Cramer, a prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on March 28, 2013.

Plaintiff is subject to 28 U.S.C. 1915(g), which 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.”

The Court takes judicial notice of the following Eastern District of California cases: *Cramer v. Schwarzenegger*, case number 1:08-cv-01310-GSA (dismissed Apr. 29, 2009, for failure to state a claim; no appeal filed); *Cramer v. Calif. Dep’t of Justice*, 2:00-cv-02374-DFL-DAD (dismissed Sept. 26, 2001, for failure to state a claim and frivolous; no appeal filed); and *Cramer v. Ty Warner, Inc.*, 2:00-mc-00099-FCD-GGH (dismissed Jul. 26, 2001, for failure to state a claim; no appeal filed). Accordingly, prior to the date he filed this action, Plaintiff had at least three strikes under section 1915(g), *Silva v. Di Vittorio*, 658 F.3d 1090, 1098-1100 (9th Cir. 2011) (dismissals must be

1 final before they count as strikes), and he is precluded from proceeding in forma pauperis unless, at
2 the time he filed suit, he was in imminent danger of serious physical injury, *Andrews v. Cervantes*,
3 493 F.3d 1047, 1053 (9th Cir. 2007).

4 The Court has reviewed the complaint filed in this action and it does not involve imminent
5 danger of serious physical injury to Plaintiff. *Andrews*, 493 F.3d at 1055-56. Plaintiff's claims arise
6 of the alleged violation of the Eighth Amendment of the United States Constitution and relate to
7 medical care issues at Bob Wiley Detention Facility in Tulare, California. However, because
8 Plaintiff is not in imminent danger of serious physical injury, he is not entitled to proceed in forma
9 pauperis. Plaintiff must pay the filing fee if he wishes to litigate these claims.

10 Accordingly, the Court HEREBY ORDERS as follows: Plaintiff is ineligible to proceed in
11 forma pauperis in this action pursuant to 28 U.S.C. § 1915(g) and this action is DISMISSED,
12 without prejudice to refiling accompanied by the \$350.00 filing fee. The Clerk of the Court shall
13 enter judgment.

14
15 IT IS SO ORDERED.

16 **Dated: March 29, 2013**

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