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

LEROY DEWITT HUNTER,

1:14-cv-00265-GSA-PC

Plaintiff,

ORDER REVOKING PLAINTIFF'S IN  
FORMA PAUPERIS STATUS UNDER 28  
U.S.C. § 1915(g)

v.

KERN MEDICAL CENTER, et al.,

ORDER VACATING ORDER OF MARCH 4,  
2014  
(Doc. 4.)

Defendants.

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

ORDER FOR CLERK OF COURT TO  
SERVE THIS ORDER ON CDCR AND  
COURT'S FINANCIAL DEPARTMENT

\_\_\_\_\_ /

Plaintiff Leroy Dewitt Hunter is a state prisoner presently incarcerated at the Lerdo Pre-Trial Facility in Bakersfield, California, proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on February 27, 2014. (Doc. 1.) On February 27, 2014, Plaintiff filed an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (Doc. 2.) On March 4, 2014, the Court granted Plaintiff leave to proceed in forma pauperis. (Doc. 4.)

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1 On March 7, 2014, Plaintiff consented to Magistrate Judge jurisdiction in this action  
2 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 5.)  
3 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California,  
4 the undersigned shall conduct any and all proceedings in the case until such time as reassignment  
5 to a District Judge is required. Local Rule Appendix A(k)(3).

6 Plaintiff is subject to 28 U.S.C. 1915(g), which provides that “[i]n no event shall a prisoner  
7 bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while  
8 incarcerated or detained in any facility, brought an action or appeal in a court of the United States  
9 that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon  
10 which relief may be granted, unless the prisoner is under imminent danger of serious physical  
11 injury.”<sup>1</sup> The Court has reviewed Plaintiff’s Complaint, and his allegations do not satisfy the  
12 imminent danger exception to section 1915(g). Andrews v. Cervantes, 493 F.3d 1047, 1055-56  
13 (9th Cir. 2007). Therefore, Plaintiff must pay the \$400.00 filing fee if he wishes to litigate these  
14 claims.<sup>2</sup>

15 Accordingly, the Court HEREBY ORDERS as follows:

- 16 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff’s in forma pauperis status is REVOKED;
- 17 2. The Court’s order entered on March 4, 2014, which granted Plaintiff leave to  
18 proceed in forma pauperis and directed the CDCR to make payments for the filing  
19 fee from Plaintiff’s prison trust account, is VACATED;
- 20 3. This action is DISMISSED, without prejudice to re-filing accompanied by the  
21 \$400.00 filing fee;

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22 <sup>1</sup> The Court takes judicial notice of the following United States District Court cases: Hunter v. Attorney Gen.  
23 State of California, et al., 2:10-cv-00329-EFB (PC) (E.D. Cal.) (dismissed 07/21/2010 as frivolous); Hunter v.  
24 Harrington, et al., 1:11-cv-00237-GBC (PC) (E.D. Cal.) (dismissed 09/02/2011 for failure to state a claim); Hunter v.  
25 Director of Corr., et al., 1:09-cv-02203-MJS (PC) (E.D. Cal.) (dismissed 10/25/2011 for failure to state a claim; and  
26 Hunter v. Director of Corr., et al., 1:10-cv-00099-GSA (PC) (E.D. Cal.) (dismissed 10/31/2011 for failure to state a  
27 claim). These strikes were final prior to the date Plaintiff filed this action. Silva v. Di Vittorio, 658 F.3d 1090, 1098-  
28 1100 (9th Cir. 2011).

<sup>2</sup> To date, the Court has not received any payment for Plaintiff’s filing fee in this case. (Court Financial  
Records.) The filing fee for this action is \$350.00 plus a \$50.00 administrative fee. 28 U.S.C. § 1914. The \$50.00  
administrative fee does not apply to persons granted in forma pauperis status. Id. Therefore, Plaintiff now owes a  
\$400.00 filing fee.

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4 The Clerk of the Court shall enter judgment; and

5. The Clerk of the Court shall serve this order on:

(1) The Director of the CDCR, via the court's electronic case filing system (CM/ECF), and

(2) The Financial Department, U.S. District Court, Eastern District of California, Fresno Division.

IT IS SO ORDERED.

Dated: March 17, 2014

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE