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

ZANE HUBBARD,

Plaintiff,

v.

M. GIPSON, et al.,

Defendants.

Case No. 1:14-cv-00748 DLB PC

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

ORDER VACATING ORDER OF  
MAY 28, 2014  
(ECF No. 4)

ORDER DISMISSING ACTION WITHOUT  
PREJUDICE TO RE-FILING WITH  
PAYMENT OF \$400.00 FILING FEE IN FULL

ORDER FOR CLERK TO SERVE THIS  
ORDER ON CDCR AND FINANCIAL  
DEPARTMENT

Plaintiff Zane Hubbard (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on May 19, 2014.<sup>1</sup> On May 28, 2014, the Court granted Plaintiff’s application to proceed in forma pauperis.

**A. THREE-STRIKES PROVISION OF 28 U.S.C. § 1915**

28 U.S.C. § 1915 governs proceedings in forma pauperis. 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

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<sup>1</sup> On June 9, 2014, Plaintiff consented to the jurisdiction of the Magistrate Judge.

1 of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state  
2 a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious  
3 physical injury.” 28 U.S.C. § 1915(g).

4 **B. DISCUSSION**

5 A review of the actions filed by Plaintiff reveals that he is subject to 28 U.S.C. § 1915(g) and  
6 is precluded from proceeding in forma pauperis unless he was, at the time the Complaint was filed,  
7 under imminent danger of serious physical injury.<sup>2</sup>

8 The Court has reviewed Plaintiff’s Complaint and finds that he does not meet the imminent  
9 danger exception. See Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Plaintiff names  
10 as Defendants: Correctional Officers M. Gipson, M. Gonzalez, D. Gonzalez, Perez, De Ochoa, and  
11 Sgt. Aceves; Bakersfield Police Officers Urbery, Beagley, and Bender; Kern County Sheriff  
12 Deputies Ashley, Jennings, Gilmoore, Peatris, Miller, and Hall; Nurse Woods; and Television News  
13 Reporter Graciela Moreno. Plaintiff complains that all Defendants continue to threaten to kidnap  
14 him, rape him, extort him, sodomize him, and request that he become a prison gang member. He  
15 complains that they are attempting to intimidate him because he is a Mexican gang member with  
16 tattoos. He alleges they are attempting to make him a homosexual. He claims he is falsely  
17 convicted and falsely confined.

18 Plaintiff fails to allege specific facts in the Complaint indicating that he was under imminent  
19 danger at the time he filed the complaint. Plaintiff makes sweeping, implausible claims without any  
20 foundation. Based on the foregoing, the Court finds that Plaintiff fails to allege the imminent danger  
21 of serious physical injury necessary to bypass § 1915(g)’s restriction on filing suit without  
22 prepayment of the filing fee.

23 Accordingly, Plaintiff may not proceed in forma pauperis in this action. Plaintiff’s in forma  
24 pauperis status shall be revoked, and the case will be dismissed without prejudice to Plaintiff refiling  
25 with full payment of the \$400.00 filing fee.<sup>3</sup>

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26 <sup>2</sup>The Court takes judicial notice of the following cases which count as strikes: 1:13-cv-00761-MJS-PC (ED  
27 Cal.) Hubbard v. CDCR, et al. (dismissed on 08/30/2013 for failure to state a claim); 1:13-cv-01078-LJO-MJS-PC (ED  
28 Cal.) Hubbard v. Mendes, et al. (dismissed on 03/17/2014 for failure to state a claim); and 1:14-cv-00351-LJO-SAB-PC  
(ED Cal.) Hubbard v. Lua, et al. (dismissed on 05/06/2014 for failure to state a claim)

1 **C. CONCLUSION**

2 Based on the foregoing, it is HEREBY ORDERED that:

- 3 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff's in forma pauperis status is REVOKED;
- 4 2. The Court's order entered on May 28, 2014, which granted Plaintiff leave to proceed
- 5 in forma pauperis and directed the CDCR to make payments for the filing fee from
- 6 Plaintiff's prison trust account, is VACATED;
- 7 3. The case is DISMISSED, without prejudice, to Plaintiff re-filing the action with full
- 8 payment of the \$400.00 filing fee;
- 9 4. The Clerk is directed to serve a copy of this order on:
- 10 (1) the Director of the CDCR, via the Court's electronic case filing system
- 11 (CM/ECF), and
- 12 (2) the Financial Department, U.S. District Court, Eastern District of California,
- 13 Fresno Division.

14 IT IS SO ORDERED.

15 Dated: January 30, 2015

16 /s/ Dennis L. Beck  
17 UNITED STATES MAGISTRATE JUDGE

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28 <sup>3</sup> To date, the Court has not received any payment for Plaintiff's filing fee in this case. 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.