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

JOHN R. DYNES,	)	Case No.: 1:14-cv-00878-LJO-SAB (PC)
	)	
Plaintiff,	)	
	)	FINDINGS AND RECOMMENDATIONS
v.	)	RECOMMENDING DENYING PLAINTIFF’S
	)	MOTION FOR LEAVE TO PROCEED IN
FRESNO COUNTY SUPERIOR COURT	)	FORMA PAUPERIS
	)	
JUDGE, et al.,	)	[ECF No. 2]
	)	
Defendants.	)	
	)	
	)	

Plaintiff John R. Dynes is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983, filed on June 9, 2014. 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

1 precluded from proceeding in forma pauperis unless he is, at the time the complaint is filed, under  
2 imminent danger of serious physical injury.<sup>1</sup>

3 The Court has reviewed Plaintiff's complaint and finds that Plaintiff does not meet the  
4 imminent danger exception.<sup>2</sup>

5 Accordingly,

6 IT IS HEREBY RECOMMENDED that:

- 7 1. Plaintiff's motion for leave to proceed in forma pauperis in this action be DENIED; and
- 8 2. This action be DISMISED, without prejudice, to refiling with the submission of the  
9 \$400.00 filing fee in full.

10 These Findings and Recommendations will be submitted to the United States District Judge  
11 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fifteen (15)**  
12 **days** after being served with these Findings and Recommendations, Plaintiff may file written  
13 objections with the Court. The document should be captioned "Objections to Magistrate Judge's  
14 Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified  
15 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th  
16 Cir. 1991).

17  
18 IT IS SO ORDERED.

19 Dated: June 12, 2014

  
UNITED STATES MAGISTRATE JUDGE

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25 <sup>1</sup> The Court takes judicial notice of case numbers Dynes v. Kern County Superior Court, No. 1:07-cv01500-AWI-TAG  
26 (E.D. Cal.) (dismissed January 18, 2008, for failure to state a claim); Dynes v. Fresno County Superior Court, No. 1:07-cv-  
27 01659-AWI-DLB (E.D. Cal.) (dismissed April 14, 2008, for failure to state a claim); Dynes v. Garcia, No. 2:11-cv-01682-  
28 ROS-LOA (D. Ariz.) (dismissed September 30, 2011, for failure to state a claim). See Dynes v. Mosher, No. 1:13-cv-  
01439-LJO-SAB (E.D. Cal.) (denying in forma pauperis status and directing payment of filing fee).

<sup>2</sup> Plaintiff alleges that his restitution fine should be dismissed due to the lack of funds in his prisoner trust account. (ECF No. 1 at 3.) The complaint is devoid of any showing that Plaintiff is under imminent danger of serious physical injury. Id.