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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEITH PREZELL THOMAS,
Plaintiff,
v.
NGUYEN, et al.
Defendants.

1:14-cv-1586 JLT (PC)
**FINDINGS AND RECOMMENDATIONS
TO DISMISS THE ACTION FOR
PLAINTIFF'S FAILURE TO OBEY
COURT ORDER**
(Doc. 9)
30-DAY DEADLINE

On November 13, 2014, Plaintiff filed an application to proceed in forma pauperis rather than pay the filing fee. (Doc. 4.) On January 5, 2015, Plaintiff's application to proceed in forma pauperis was denied and he was ordered to pay the \$400.00 filing fee in full within thirty days. (Docs. 9.) More than thirty days have passed and Plaintiff has failed to pay the filing fee.

A civil action may not proceed absent the submission of either the filing fee or a completed application to proceed *in forma pauperis*. 28 U.S.C. §§ 1914, 1915. Though Plaintiff submitted a completed application to proceed *in forma pauperis*, it was denied since Plaintiff had more than three strikes against him and did not meet the imminent danger of serious physical exception per 28 U.S.C. § 1915(g) at the time this action was filed. Based on Plaintiff's ineligibility to proceed *in forma pauperis* and his failure to comply with the Court's order to pay the filing fee in full, dismissal of this action is appropriate. *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110.

1 Accordingly, it is HEREBY RECOMMENDED that this action be DISMISSED without
2 prejudice for Plaintiff's failure to pay the \$400.00 filing fee in full.

3 These Findings and Recommendations will be submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within 30**
5 **days** after being served with these Findings and Recommendations, Plaintiff may file written
6 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
7 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
8 specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, __ F.3d __, __,
9 No. 11-17911, 2014 WL 6435497, at *3 (9th Cir. Nov. 18, 2014) (citing *Baxter v. Sullivan*, 923
10 F.2d 1391, 1394 (9th Cir. 1991)).

11 IT IS SO ORDERED.

12
13 Dated: March 10, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE