

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

BRUCE BERNNA,

Plaintiff,

V.

LUKE POWELL, FRANK NAVARRO  
LEE CARIAGA, ALFREDO FUERTO,  
and ALFRED FRAUSTO,

## Defendants.

1:15-cv-00283-AWI-GSA

**ORDER GRANTING IN FORMA  
PAUPERIS APPLICATION**

**ORDER DIRECTING PAYMENT OF  
INMATE FILING FEE BY THE  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS**

(ECF No. 2)

Plaintiff Bruce Berna (“Plaintiff”), proceeding *pro se* while incarcerated in Taft Modified Community Correctional Facility (“TMCCF”), has filed a complaint in this action along with an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. ECF Nos. 1, 2.

Regarding his application to proceed *in forma pauperis*, Plaintiff has made the requisite showing under 28 U.S.C. § 1915(a). Accordingly, his application to proceed *in forma pauperis* is GRANTED. However, pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff remains obligated to pay the statutory filing fee of \$400.00 for this action when funds exist in his inmate trust account. Accordingly, Plaintiff shall make monthly payments in the amount of twenty percent (20%) of the

1 preceding month's income credited to his trust account. 28 U.S.C. § 1915(b)(2). The California  
2 Department of Corrections, or its designee, is required to send payments from Plaintiff's trust  
3 account to the Clerk of this Court each time the amount in the account exceeds \$10.00, until the  
4 statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

5 As to the status of his complaint, Plaintiff is advised that pursuant to 28 U.S.C.  
6 § 1915(e)(2), the court must conduct an initial review of every pro se complaint to determine  
7 whether it is legally sufficient under the applicable pleading standards. The court must dismiss a  
8 complaint, or portion thereof, if the court determines that the complaint is legally frivolous or  
9 malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a  
10 defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). If the court determines that  
11 the complaint fails to state a claim, leave to amend may be granted to the extent that the  
12 deficiencies in the complaint can be cured by amendment. Plaintiff's complaint will be screened  
13 in due course.

14

15 **ORDER**

16

17 IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's application to proceed in forma pauperis is GRANTED;
- 19 2. The California Department of Corrections, or its designee, shall collect  
20 payments from Plaintiff's trust account in an amount equal to twenty percent (20%) of the  
21 preceding month's income credited to the trust account, and, each time the amount in the account  
22 exceeds \$10.00, forward those payments to the Clerk of this Court in accordance with 28 U.S.C. §  
23 1915(b)(2), until a total of \$400.00 has been collected and forwarded to the Clerk of the Court.  
24 The payments shall be clearly identified by the name and number assigned to this action;
- 25 3. The Clerk of the Court is directed to serve a copy of this order and a copy of  
26 Plaintiff's *in forma pauperis* application on the Secretary of the California Department of  
27 Corrections, 1515 S Street, Sacramento, California 95814;
- 28 4. The Clerk of the Court is directed to serve a copy of this order on the Financial

Department, U.S. District Court, Eastern District of California, Fresno Division; and

5. Within sixty (60) days of the date of service of this order, Plaintiff shall submit a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of the complaint, if he has not already done so.

IT IS SO ORDERED.

Dated: March 2, 2015

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE