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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON PELLUM, SR.,

Plaintiff,

v.

FLEMINGS RESTAURANT,

Defendant.

Case No. 1:15-cv-410 LJO-BAM

ORDER DISMISSING ACTION, WITHOUT
PREJUDICE, PURSUANT TO 28 U.S.C. §
1915(G)

(Doc. 2)

/

Plaintiff, Jason Everett Pellum (“Plaintiff”), a prisoner proceeding *pro se* in this action filed a complaint, as well as a request to proceed in forma pauperis on February 25, 2015.¹ (Docs. 1, and 2). Plaintiff is subject to 28 U.S.C. § 1915(g), which 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 has at least three

¹ This case was initially filed on February 25, 2014 in the Sacramento Division of this district and was transferred to this Court on March 16, 2015. (Docs. 1 and 3).

1 dismissals which qualify as final strikes under section 1915(g). Silva v. Di Vittorio, 658 F.3d 1090,
2 1098-99 (9th Cir. 2011). The Court takes judicial notice of the following United States District Court
3 cases: Pellum v. Fresno Police Dept., 1:10-cv-1258-OWW-SKO (E.D.Cal.) (dismissed for failure to
4 state a claim on Mar. 7, 2011); Pellum v. The White House, 2:13-cv-0651-AC (E.D.Cal.) (dismissed
5 as frivolous on April 26, 2013); Pellum v. Skiles, 1:14-cv-1082-MJS (E.D.Cal.) (dismissed for failure
6 to state a claim on July 22, 2014).
7

8 The Court has reviewed Plaintiff's complaint and his allegations do not satisfy the imminent
9 danger exception to section 1915(g). *Andrews v. Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir. 2007). If
10 Plaintiff wishes to pursue this action, he must first pay the \$400.00 filing fee. Accordingly, the Court
11 HEREBY ORDERS as follows this action is DISMISSED, without prejudice to re-filing accompanied by
12 the \$400.00 filing fee.
13

14 **SO ORDERED**

14 **Dated: March 24, 2015**

15 /s/ Lawrence J. O'Neill
16 **United States District Judge**
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