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

TYRONE L. REED,  
  
                    Plaintiff,  
  
          v.  
  
BITER, et al.,  
  
                    Defendants.

Case No. 1:15-cv-00627-LJO-DLB PC  
  
ORDER REVOKING PLAINTIFF’S IN  
FORMA PAUPERIS STATUS AND  
DISMISSING ACTION WITHOUT  
PREJUDICE PURSUANT TO 1915(G)

Plaintiff Tyrone L. Reed (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this action pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on March 10, 2015. He filed an amended complaint on March 31, 2015, and the action was transferred to this Court on April 22, 2015. Plaintiff names Warden Biter and Correctional Officer Cranston as Defendants.

On April 23, 2015, the Court granted Plaintiff’s application to proceed in forma pauperis (ECF No. 12).

**DISCUSSION**

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

1 relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”<sup>1</sup>  
2 Plaintiff was designated as a three-strikes litigant in Reed v. Wong, 3:11-cv-4921 TEH (N.D. Cal.  
3 2011).

4 The Court has reviewed Plaintiff’s First Amended Complaint and finds that it does not  
5 involve imminent danger of serious physical injury to Plaintiff. Andrews v. Cervantes, 493 F.3d  
6 1047, 1055-56 (9th Cir. 2007). Plaintiff alleges the use of excessive force by Defendant Cervantes  
7 during an incident prior to the filing of the complaint. In fact, Plaintiff admits that the “danger has  
8 already been committed.” ECF No. 6, at 3.

9 Therefore, because Plaintiff is not in imminent danger of serious physical injury, he is not  
10 entitled to proceed in forma pauperis. Plaintiff must pay the filing fee if he wishes to litigate these  
11 claims.

12 Accordingly, the Court HEREBY ORDERS as follows:

- 13 1. Plaintiff’s in forma pauperis status is REVOKED;
- 14 2. This action is DISMISSED, without prejudice to re-filing accompanied by the  
15 \$400.00 filing fee; and
- 16 3. The Clerk of the Court shall enter judgment.

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19 IT IS SO ORDERED.

20 Dated: September 24, 2015

/s/ Lawrence J. O’Neill  
UNITED STATES DISTRICT JUDGE

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27 <sup>1</sup> The Court takes judicial notice of the following cases: Reed v. Thomas, Case No. 3:08-cv-5612 TEH (N.D. Cal. 2008)  
28 (dismissed December 24, 2008, for failure to state a claim); (2) Reed v. Levy, 3:09-cv-0324 (N.D. Cal. 2009) (dismissed  
March 4, 2009, for failure to state a claim); (3) Reed v. Newport Tobacco Co., 3:11-cv-1195 (N.D. Cal. 2011) (dismissed  
April 7, 2011, for failure to state a claim); and (4) Reed v. Harrison, 1:11-cv-1883 (E.D. Cal. 2011) (dismissed June 20,  
2013, for failure to state a claim).