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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
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10 MANUEL ANTONIO GONZALEZ, III, Case No. 1:15-cv-00680 DLB (PC)
11 Plaintiff, ORDER (1) DENYING MOTION FOR
12 v. LEAVE TO PROCEED IN FORMA
13 J. RAZO, et al., PAUPERIS, (2) DISMISSING ACTION,
14 Defendants. WITHOUT PREJUDICE, PURSUANT TO 28
U.S.C. § 1915(G), AND (3) DIRECTING
CLERK OF COURT TO ENTER
JUDGMENT
15 (ECF No. 2)

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17 Plaintiff Manuel Antonio Gonzalez, III, # T-42888, a state prisoner proceeding pro se, filed
18 this civil rights action pursuant to 42 U.S.C. § 1983 on May 4, 2015, along with a motion for leave
19 to proceed in forma pauperis. On May 15, 2015, Plaintiff consented to the jurisdiction of the
20 Magistrate Judge pursuant to 28 U.S.C. § 636(c).

21 Plaintiff is subject to 28 U.S.C. 1915(g), which provides that “[i]n no event shall a prisoner
22 bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while
23 incarcerated or detained in any facility, brought an action or appeal in a court of the United States
24 that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon
25 which relief may be granted, unless the prisoner is under imminent danger of serious physical
26 injury.”¹ The Court has reviewed Plaintiff’s complaint and his allegations do not satisfy the

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28 ¹ The Court takes judicial notice of the following United States District Court cases: 3:07-cv-01342-L-POR, Gonzalez
v. Sepulveda, (S.D. Cal. 2007) (Dismissed voluntarily after it was determined that Plaintiff was subject to 28 U.S.C. §
1915(g) as a three-striker); 2:02-cv-08884-PA-SS, Gonzalez v. State of California, et al., (C.D. Cal. 2003) (Order

1 imminent danger exception to section 1915(g).² Andrews v. Cervantes, 493 F.3d 1047, 1055-56
2 (9th Cir. 2007). Therefore, Plaintiff must pay the \$400.00 filing fee if he wishes to litigate his
3 claim.

4 Accordingly, the Court HEREBY ORDERS as follows:

5 1. Plaintiff's motion for leave to proceed in forma pauperis in this action is DENIED;
6 2. This action is DISMISSED, without prejudice to re-filing accompanied by the
7 \$400.00 filing fee; and
8 3. The Clerk of the Court shall enter judgment.

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10 IT IS SO ORDERED.

11 Dated: May 28, 2015

12 /s/ Dennis L. Beck
13 UNITED STATES MAGISTRATE JUDGE
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25 Dismissing First Amended Complaint for failing to state a claim) (strike one); 2:02-cv-07604-PA-SHS, Gonzalez v.
26 Mayor of Carson, (C.D. Cal. 2004) (Order Dismissing Third Amended Complaint for failing to state a claim) (strike
27 two); and 1:02-cv-06456-OWW-WMW, Gonzalez v. Yarborough, (E.D. Cal. 2004) (Order Dismissing Complaint for
28 failing to state a claim) (strike three). These strikes were final prior to the date Plaintiff filed this action. Silva v. Di
Vittorio, 658 F.3d 1090, 1098-1100 (9th Cir. 2011).

2 Plaintiff is suing J. Razo and numerous other defendants who are correctional officers or medical staff at California
28 Correctional Institution at Tehachapi, California. Plaintiff's claim arises out of an alleged assault which took place
during an escort on March 18, 2014. His allegations do not satisfy the imminent danger exception to section 1915(g).