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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,
Plaintiff,
v.
C. OGBEHI, et al.,
Defendants.

Case No. 1:15-cv-01059-LJO-DLB PC
ORDER DENYING PLAINTIFF’S
APPLICATION TO PROCEED IN FORMA
PAUPERIS AND DISMISSING ACTION,
WITHOUT PREJUDICE, PURSUANT TO 28
U.S.C. § 1915(G)
(Document 2)

Plaintiff Josh Thomas (“Plaintiff”) is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on July 10, 2015, along with an application to proceed in forma pauperis.

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.”¹

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¹ The Court takes judicial notice of the following cases: 1:98-cv-06095, Thomas v. Wilson (dismissed on June 21, 1999, for failure to state a claim for which relief may be granted); 1:99-05350, Thomas v. Fairman (dismissed on December 22, 2000, for failure to state a claim for which relief may be granted); 1:04-05793, Thomas v. Carrasco (dismissed on October 13, 2010, for failure to state a claim for which relief may be granted).

1 The Court has reviewed Plaintiff's complaint and finds that it does not involve imminent
2 danger of serious physical injury to Plaintiff. Andrews v. Cervantes, 493 F.3d 1047, 1055-56 (9th
3 Cir. 2007). Plaintiff alleges that Defendants have refused to provide reasonable accommodations
4 under the Americans with Disabilities Act, denied requests for medically necessary appliances, and
5 ignored various medical records. Plaintiff provides no specific information as to his claims, and his
6 vague and conclusory allegations are insufficient to meet the imminent danger requirement.
7 Although Plaintiff states that Defendants caused pain and suffering, this is not sufficient to overcome
8 the lack of factual information.

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 motion for leave to proceed in forma pauperis in this action is DENIED;
- 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.

17 **IT IS SO ORDERED**

18 **Dated: July 14, 2015**

19 /s/ Lawrence J. O'Neill
20 **United States District Judge**
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