

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARLES CROMER,

Plaintiff,

v.

VICTOR CARREBELLO, et al.,

Defendants.

1:15-cv-01810-EPG (PC)

THIRD ORDER FOR PLAINTIFF TO
SUBMIT APPLICATION TO
PROCEED IN FORMA PAUPERIS OR
PAY FILING FEE WITHIN 45 DAYS

ORDER DIRECTING CLERK OF
COURT TO SEND PLAINTIFF
APPLICATION TO PROCEED IN
FORMA PAUPERIS BY A PRISONER

Charles Cromer (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on December 3, 2015. (ECF No. 1). On January 28, 2016, Plaintiff filed an amended complaint (ECF No. 5), which awaits the Court’s requisite screening.¹

On December 14, 2015, the Court issued an order requiring Plaintiff to either pay the filing fee for this action or submit an application to proceed in forma pauperis within 45 days of the date of service of the order. (ECF No. 3). The Court sent Plaintiff the Court’s form application to proceed in forma pauperis, to complete and return to the Court. (*Id.*). The 45-day period expired, and Plaintiff had not paid the filing fee, submitted an application to proceed in forma pauperis, or otherwise responded to the Court’s order.

On May 3, 2016, the Court issued an order to show cause, requiring Plaintiff to show cause why the case should not be dismissed for Plaintiff’s failure to obey the Court’s order. (ECF No. 7). On June 17, 2016, Plaintiff filed a response to the order to show cause. (ECF No. 8). The response

¹ On February 10, 2016, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. § 636(c) (ECF No. 6), and no other parties have made an appearance. Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

1 included an application to proceed in forma pauperis, but it was the wrong form. It was not the
2 form for prisoners, which includes information related to the prison trust account that is needed to
3 process the IFP application. Accordingly, the Court discharged the order to show cause, sent
4 Plaintiff a copy of the appropriate form, and gave him a forty-five day deadline to complete and
5 return it or pay the filing fee. (ECF No. 9). The forty-five day deadline has passed, and Plaintiff
6 failed to complete and return the correct application to proceed in forma pauperis.

7 The Court will give Plaintiff one more chance to file the correct application. The Court is
8 ordering the clerks office to sent Plaintiff the correct form so there is no chance of confusion.
9 However, the Court notes that Plaintiff is expected to comply with Court rules and orders. **If**
10 **Plaintiff fails to submit the correct application to proceed in forma pauperis within forty-five**
11 **days of the date of service of this order, this case will be dismissed.**

12 Accordingly, based on the foregoing, IT IS ORDERED that:

- 13 1. The Clerk of Court is directed to send Plaintiff an **Application to Proceed In**
14 **Forma Pauperis by a Prisoner;**
- 15 2. Within forty-five (45) days of the date of service of this order, Plaintiff shall
16 submit the application to proceed in forma pauperis, completed and signed, or in
17 the alternative, pay the \$400.00 filing fee for this action. **No requests for**
18 **extension will be granted. Failure to comply with this order will result in**
19 **dismissal of this action;** and
- 20 3. Within sixty (60) days of the date of service of this order, Plaintiff shall submit
21 a certified copy of his prison trust account statement for the six-month period
22 immediately preceding the filing of the complaint, if Plaintiff has not already
23 done so.

24
25 IT IS SO ORDERED.

26 Dated: December 28, 2016

27 /s/ Eric P. Groj
28 UNITED STATES MAGISTRATE JUDGE