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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,
Plaintiff,
v.
S. SPALDING, et al.,
Defendants.

) Case No.: 1:16-cv-00115-LJO-SAB (PC)
)
) ORDER (1) DENYING MOTION FOR LEAVE TO
) PROCEED IN FORMA PAUPERIS, (2)
) DISMISSING ACTION, WITHOUT PREJUDICE,
) PURSUANT TO 28 U.S.C. § 1915(G), AND (3)
) DIRECTING CLERK OF COURT TO ENTER
) JUDGMENT
) [ECF Nos. 1 & 2]
)

Plaintiff Tony Blackman, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 25, 2016. Plaintiff seeks leave to proceed in forma pauperis in this case.

However, 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

¹ The Court takes judicial notice of the following United States District Court cases: Blackman v. Taxdahl, case number 1:04-cv-06389-AWI LJO (E.D. Cal.) (dismissed on May 18, 2007, for failure to state a claim); Blackman v. Evans, case number 1:06-cv-00081-GSA (E.D. Cal.) (dismissed on Feb 3, 2009, for failure to state a claim); and Blackman v. Medina, case number 3:05-cv-05390-SI (N.D. Cal.) (dismissed on Mar. 13, 2006, and for failure to state a claim); see also Blackman v. Hedgpath,

1 The Court has reviewed Plaintiff's complaint and it does not involve imminent danger of serious
2 physical injury to Plaintiff. Andrews v. Cervantes, 493 F.3d 1047, 1055-56 (9th Cir. 2007).
3 Plaintiff's claims arise out of processing and/or handling of his inmate appeals, requests for
4 accommodations, and access to the law library.

5 Plaintiff is not in imminent danger of serious physical injury and therefore, he is not entitled to
6 proceed in forma pauperis. Accordingly, the Court HEREBY ORDERS as follows:

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

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12 IT IS SO ORDERED.

13 Dated: January 27, 2016

/s/ Lawrence J. O'Neill
14 UNITED STATES DISTRICT JUDGE

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27 case number 1:10-cv-01393 LJO MJS (E.D. Cal) (Aug. 11, 2010, order designating plaintiff a three
28 strikes litigant for purposes of section 1915(g).) 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).