

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 DANIEL OROZCO,

12 Plaintiff,

13 vs.

14 W. WILSON, *et al.*,

15 Defendants.

Case No. 1:16-cv-01731-EPG-PC

**ORDER TO DISMISS CASE FOR
PLAINTIFF'S FAILURE TO COMPLY
WITH COURT ORDER**

16 Plaintiff Daniel Orozco, proceeding *pro se*, filed a complaint on November 17, 2016,
17 alleging claims under 42 U.S.C. § 1983 against Defendants W. Wilson, D. Meyer, J. Marshall,
18 and R. Prioleau. (ECF No. 1.) Plaintiff did not pay the filing fee or file an application to
19 proceed *in forma pauperis*.¹
20

21 On November 18, 2016, the Court issued an order requiring Plaintiff to submit an
22 application to proceed *in forma pauperis* or pay the \$400.00 filing fee for this action within
23 forty-five days. (ECF No. 3.) In response to the order, Plaintiff filed a one page certificate of
24 funds in his prison account, but did not return the application to proceed *in forma pauperis* that
25 he had been instructed to return. (ECF No. 5.) On January 9, 2017, the Court again sent
26

27 ¹ On November 28, 2016, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. §
28 636(c) and no other parties have made an appearance. (ECF No. 4.) 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 Plaintiff a blank application to proceed *in forma pauperis*, informed him that his previous filing
2 was insufficient, and provided him with another thirty days to submit the requested application.
3 (ECF No. 6.) Plaintiff was also informed that a failure to comply with the order would lead to
4 dismissal of his action. The deadline to respond to the January 9, 2017 order has now expired
5 and Plaintiff has not filed any further documents with the Court or paid the required filing fee.

6 A plaintiff must pay the required filing fee or receive permission to proceed *in forma*
7 *pauperis* before beginning a civil action in federal court. *Pate v. Guiltie*, 2009 WL 3710714, at
8 *1, Case No. CIV S-08-1802-JAM-DAD-PS (E.D. Cal. Nov. 4, 2009), *citing* 28 U.S.C. §
9 1914(a). Local Rule 110 also provides that “[f]ailure of counsel or of a party to comply with
10 these Rules or with any order of the Court may be grounds for imposition by the Court of any
11 and all sanctions . . . within the inherent power of the Court.” The Court has “the inherent
12 power to control” its docket and may, in the exercise of that power, “impose sanctions
13 including, where appropriate, dismissal of a case.” *Bautista v. Los Angeles County*, 216 F.3d
14 837, 841 (9th Cir. 2000). Plaintiff has neither paid the filing fee nor complied with the Court’s
15 orders to submit an application to proceed *in forma pauperis*.
16

17 Accordingly, the Court DISMISSES THIS ACTION WITHOUT PREJUDICE based on
18 Plaintiff’s failure to obey the Court’s orders of November 18, 2016 and January 9, 2017. The
19 Clerk of the Court is DIRECTED to close this case.

20
21 IT IS SO ORDERED.

22 Dated: March 2, 2017

23 /s/ Eric P. Gray
24 UNITED STATES MAGISTRATE JUDGE
25
26
27
28