

1 The Court has reviewed Plaintiff's complaint and his allegations do not satisfy the imminent
2 danger exception to section 1915(g). Andrews v. Cervantes, 493 F.3d 1047, 1055-56 (9th Cir. 2007).
3 Plaintiff is currently housed at Pelican Bay State Prison in Crescent City, California. He alleges that
4 from March 26, 2015 through September 17, 2015, while he was housed at Kern Valley State Prison,
5 the defendant correctional officers subject him to threats in retaliation for his reports of prison official
6 misconduct, and on September 15, 2015, they assaulted him during afternoon yard at that institution.

7 Plaintiff's complaint concerns past events at an institution where he was no longer housed by
8 the time his complaint was filed. Thus, although the allegations are grave, Plaintiff has not alleged any
9 imminent danger of serious physical injury at the time of that filing. Therefore, Plaintiff has not
10 satisfied the exception from the three strikes bar under 28 U.S.C. § 1915(g), and must pay the \$400.00
11 filing fee if he wishes to litigate this claim.

12 Accordingly, the Court HEREBY ORDERS as follows:

- 13 1. Plaintiff's motion for leave to proceed in forma pauperis (ECF No. 7) is DENIED;
- 14 2. This action is DISMISSED without prejudice to re-filing accompanied by the \$400.00
15 filing fee; and
- 16 3. The Clerk of the Court is directed to terminate all pending motions and close this case.

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18 IT IS SO ORDERED.

19 Dated: January 19, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE