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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,
Plaintiff,
v.
MONAE, et al.,
Defendants.

Case No. 1:17-cv-00756-LJO-SKO (PC)
**ORDER DISMISSING ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY FILING
FEE**
(Docs. 2, 7, 10)

Plaintiff, Brandon Alexander Favor, a state prisoner proceeding *pro se*, filed this civil rights action on June 2, 2017. On July 13, 2017, an order issued finding Plaintiff ineligible to proceed *in forma pauperis* and requiring payment of the filing fee within twenty-one days. Plaintiff was warned that the action would be dismissed without prejudice if he failed to obey the order. More than a month has passed and Plaintiff has not paid the filing fee.

A civil action may not proceed absent the submission of either the filing fee or approval to proceed *in forma pauperis*. 28 U.S.C. §§ 1914, 1915. Since Plaintiff was found ineligible to proceed *in forma pauperis*, payment of the filing fee is required. Based on Plaintiff's failure to pay the filing fee in compliance with the Court's order, dismissal of this action is appropriate. *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110.

It is noted that Plaintiff recently filed a petition for writ of habeas corpus in this action. (Doc. 13.) However, Plaintiff initiated this civil rights action pursuant to 42 U.S.C. § 1983.

1 Plaintiff may not unilaterally change this civil rights action to a habeas petition to avoid payment
2 of the filing fee. If Plaintiff desires to pursue a writ of habeas corpus, he must do so in a new
3 action.

4 Accordingly, the Court **HEREBY ORDERS** this action dismissed without prejudice, for
5 Plaintiff's failure to pay the filing fee. The Clerk's Office is directed to close this action and to
6 return the petition for writ of habeas corpus and exhibits which Plaintiff filed on August 21, 2017
7 (Doc. 13) to Plaintiff with service of this order.

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9 IT IS SO ORDERED.

10 Dated: August 28, 2017

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

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