

1 **III. FINDINGS**

2 The Court may take judicial notice of court records. *United States v. Howard*, 381 F.3d
3 873, 876 n.1 (9th Cir. 2004). Here, judicial notice is taken of three of Plaintiff’s prior actions:
4 *Quiroga v. Aguilara, et al.*, 1:15-cv-01202-LJO-MJS (PC), which was dismissed on August 18,
5 2016, for failure to state a cognizable claim; *Quiroga v. Food Service*, 1:15-cv-01203-EPG (PC),
6 which was dismissed on August 23, 2016, for failure to state a cognizable claim; and *Quiroga v.*
7 *King*, 1:15-cv-01697-AWI-MJS (PC), which was dismissed on February 8, 2017, for failure to
8 state a cognizable claim. Plaintiff is thus subject to 28 U.S.C. § 1915(g) and is precluded from
9 proceeding *in forma pauperis* in this action unless his allegations show that, at the time he filed
10 this action, he was under imminent danger of serious physical injury. *See Andrews v. Cervantes*,
11 493 F.3d 1047, 1053 (9th Cir. 2007).

12 The Court has reviewed Plaintiff’s Complaint and finds that he does not meet the
13 imminent danger exception. Plaintiff’s allegations are based on events that allegedly occurred
14 while he was held at the Lerdo Detention Facility in Bakersfield, California. (Doc. 1, pp. 4-7.)
15 When Plaintiff filed this action, however, he was housed at High Desert State Prison in
16 Susanville, California. Thus, even if the events Plaintiff alleges amounted to imminent danger,¹
17 Plaintiff was not subjected to such danger when he filed this action since he was no longer held at
18 the Lerdo Detention Facility. *Andrews*, at 1053.

19 Based on the foregoing, the Court finds that Plaintiff fails to allege an imminent danger of
20 serious physical injury necessary to bypass the restriction of § 1915(g) on filing suit without
21 prepayment of the filing fee since he previously received three strikes. Plaintiff may not proceed
22 *in forma pauperis* and must submit the appropriate filing fee to proceed with this action.

23 **IV. RECOMMENDATIONS**

24 Accordingly, it is HEREBY RECOMMENDS that Plaintiff’s motion to proceed *in forma*
25 *pauperis*, filed on June 28, 2017, (Doc. 2), should be DENIED and Plaintiff should be ordered to

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27 ¹ It is noteworthy that Plaintiff’s allegations that the Kern County Sheriff is using a drone to
28 “invade the sphere of the intellect and six (sic) senses” are not facially plausible and need not be
accepted as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

