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## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

9 MARCUS KERNELL WINSTEAD.

Plaintiff,

v.

ANDRE MATEVOUSIAN, et al.,

Defendants.

Case No. 1:17-cv-00951-BAM (PC)

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

(ECF No. 2)

ORDER REQUIRING PLAINTIFF TO FILE COMPLETED APPLICATION TO PROCEED IN FORMA PAUPERIS OR PAY FILING FEE

FORTY-FIVE (45) DAY DEADLINE

Plaintiff Marcus Kernell Winstead ("Plaintiff") is a federal prisoner proceeding pro se in this civil rights action pursuant to <u>Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics</u>, 403 U.S. 388 (1971). On July 17, 2017, Plaintiff filed a complaint, together with a motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF Nos. 1, 2.)

Plaintiff's application to proceed in forma pauperis is incomplete. There is no certified copy of Plaintiff's trust account statement for the past six months attached to the application as the instructions require, nor is the certificate portion of the form dated, signed, or filled-out by an authorized officer of the correctional institution.

Plaintiff has attached a declaration requesting to file his application to proceed in forma pauperis without the 6-month printout or staff signature because prison staff have refused to print out his trust account statement and there is currently no warden at his institution that he can appeal to. Plaintiff further states that because members of the prison staff are aware of his lawsuit, they refuse to give him stamps, copies, and forms. Plaintiff declares that he currently has

1 an account balance of \$95.00, which is frozen for a fine from Atwater. (ECF No. 2.) 2 Based on Plaintiff's application to proceed in forma pauperis and attached declaration, the 3 Court finds that Plaintiff has made a good faith effort to complete his application. However, the 4 Court declines to grant Plaintiff's request to proceed without a certified trust account statement. 5 Plaintiff must submit a completed form if he wishes for the application to be considered. 6 Plaintiff states that he anticipates being transferred to USP Lewisburg in Lewisburg, 7 Pennsylvania in the next week or two. (ECF No. 2.) Based on this information, the Court finds it 8 appropriate to grant Plaintiff additional time to file a completed application to proceed in forma 9 pauperis upon reaching USP Lewisburg. 10 Accordingly, it is HEREBY ORDERED that: 11 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is DENIED, without 12 prejudice; 2. 13 Within forty-five (45) days from the date of service of this order, Plaintiff shall 14 file the attached application to proceed in forma pauperis, completed and signed, or in the 15 alternative, pay the \$400.00 initial filing fee for this action; 16 3. No extension of time will be granted without a showing of good cause; and 17 4. The failure to comply with this order will result in dismissal of this action 18 without prejudice. 19 IT IS SO ORDERED. 20 /s/ Barbara A. McAulif 21 Dated: **July 20, 2017** 22 23 24 25 26

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