

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SHERMAN ALAN BROWN,	Case No. 1:17-cv-01295-SKO (PC)
	ORDER TO SHOW CAUSE WHY THE CASE
Plaintiff,	SHOULD NOT BE DISMISSED BECAUSE OF
	PLAINTIFF'S UNTRUE ALLEGATION OF
V.	POVERTY IN FILING FOR IN FORMA
	PAUPERIS STATUS
BUENO,	
	(Docs. 2, 6)
Defendant.	
	TWENTY-ONE (21) DAY DEADLINE

Plaintiff, Sherman Alan Brown, is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983, which he filed on September 28, 2017. (Doc. 1.) Plaintiff also filed a motion to proceed *in forma pauperis*. (Doc. 2.) Later that same date, the California Department of Corrections and Rehabilitation submitted a certified prison trust account statement for Plaintiff. (Doc. 6.) Upon review, Plaintiff's trust account reflects an average balance of one thousand dollars to over three thousand dollars for the five month period before Plaintiff filed this action.

Proceeding "in forma pauperis is a privilege not a right." Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed IFP, Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339-40 (1948), "the same even-handed care must be employed to assure that federal funds are not squandered to underwrite, at public expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material

1	part, to pull his own oar." Doe v. Educ. Enrichment Sys., No. 15cv2628-MMA (MDD), 2015
2	U.S. Dist. LEXIS 173063, *2 (S.D. Cal. Dec. 30, 2015) (citing <i>Temple v. Ellerthorpe</i> , 586 F.
3	Supp. 848, 850 (D.R.I. 1984)). "[T]he court shall dismiss the case at any time if the court
4	determines the allegation of poverty is untrue." 28 U.S.C. § 1915(e)(2)(A). Plaintiff clearly was
5	not impoverished when he filed this action and his motion to proceed in forma pauperis.
6	Accordingly, it is HEREBY ORDERD to that within twenty-one (21) days of the date
7	of service of this order, Plaintiff shall show cause why his in forma pauperis status should not be
8	denied and this action dismissed without prejudice to refiling with prepayment of the filing fee.
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10	IT IS SO ORDERED.
11	Dated: October 19, 2017 /s/ Sheila K. Oberto
12	UNITED STATES MAGISTRATE JUDGE
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