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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DON SAM HA,
Plaintiff,
v.
AMEEN MANASRAH, et al.,
Defendants.

Case No. 1:17-cv-1296-MJS (PC)

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO PROCEED IN
FORMA PAUPERIS AND REQUIRING
PLAINTIFF TO PAY THE FILING FEE IN
FULL**

(ECF No. 2)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff is a state prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983 on January 19, 2017. (ECF No. 1.) Plaintiff seeks leave to proceed in forma pauperis. (ECF No. 2.)

I. Motion to Proceed In Forma Pauperis

Plaintiff moves to proceed in forma pauperis in accordance with 28 U.S.C. 1915(a), which provides that the Court “may authorize the commencement of any . . . action . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.” As a prisoner, the statute also requires Plaintiff to “submit a certified copy of the trust fund account statement (or institutional equivalent) for [Plaintiff] for the 6-month period immediately preceding the

1 filing of the complaint[.]” 28 U.S.C. 1915(a)(2). Plaintiff submitted all of the appropriate
2 documentation as required by 28 U.S.C. 1915. (ECF Nos. 2; 5.)

3 The documents submitted in support of Plaintiff’s in forma pauperis application
4 show he is able to afford the costs of this action. Plaintiff currently has a balance of
5 \$567.88 in his prison account. (ECF No. 5.) Over the last six months, the account
6 balance has been as high as \$2003.62; it has not been below the current balance of
7 \$567.88. (ECF No. 5.)

8 With his form application and a certified prison account statement, Plaintiff
9 includes a note stating that his income (sporadic deposits made by friends and family) is
10 inconsistent and may not continue and be available for future costs. (ECF No. 2 at 3.)
11 He then adds that some of the funds in his account belong to his cellmate who has
12 money deposited into Plaintiff’s account to avoid restitution. (Id.) **Plaintiff’s apparent**
13 **participation in a conspiracy to enable a fellow prisoner to evade a Court Order**
14 **and defraud the person or entity to which restitution is owed does not help his**
15 **case.**

16 Regardless, prison records and Plaintiff’s own admission reflect that he is able to
17 pay the filing fee for this action and that he does not qualify for in forma pauperis status.

18 Based on the foregoing, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff’s motion for leave to proceed in forma pauperis in this action (ECF
20 No. 2) is DENIED; and
- 21 2. Plaintiff is directed to pay the \$400 filing fee in full within **twenty-one (21)**
22 **days** of this order.
- 23 3. Failure to comply with this order will result in a recommendation of dismissal.

24 IT IS SO ORDERED.

25 Dated: October 10, 2017

26 /s/ Michael J. Seng
27 UNITED STATES MAGISTRATE JUDGE
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