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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CURTIS DANE SANDERS,
Plaintiff,
v.
ANDRE MATEVOUSIAN, et al.,
Defendants.

Case No. 1:17-cv-1554-AWI-MJS (PC)
**ORDER REQUIRING PLAINTIFF TO
PAY FILING FEE OR SUBMIT AN
APPLICATION TO PROCEED IN
FORMA PAUPERIS**
(ECF No. 3)
THIRTY (30) DAY DEADLINE

Plaintiff is a state prisoner proceeding pro se in this civil rights action filed on November 13, 2017. (ECF No. 1.)

Plaintiff filed this case as a habeas corpus petition in the Sacramento Division of the United States District Court for the Eastern District of California. However, the Magistrate Judge assigned to the case construed it, and re-designated it, as a Bivens¹ action because it raises challenges to the conditions, not the fact or duration, of confinement. (ECF No. 3.) As the alleged violations took place in Merced County in the Fresno Division of the Eastern District of California, the case was then transferred to the undersigned. See Local Rule 120(d).

When Plaintiff filed this case as a habeas corpus petition, he paid the requisite

¹ Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

1 \$5.00 filing fee for such actions. However, as the case has been re-designated as a
2 Bivens action, Plaintiff is required to pay the \$400.00 filing fee for a civil case or file a
3 motion to proceed in forma pauperis.

4 28 U.S.C. 1915(a) provides that the Court “may authorize the commencement of
5 any . . . action . . . without prepayment of fees or security therefor, by a person who
6 submits an affidavit that includes a statement of all assets such prisoner possesses that
7 the person is unable to pay such fees or give security therefor.” As a prisoner, the
8 statute also requires Plaintiff to “submit a certified copy of the trust fund account
9 statement (or institutional equivalent) for [Plaintiff] for the 6-month period immediately
10 preceding the filing of the complaint[.]” 28 U.S.C. 1915(a)(2).

11 Accordingly, IT IS HEREBY ORDERED that:

12 (1) The Clerk’s Office shall send Plaintiff an application to proceed in forma
13 pauperis;

14 (2) Within thirty (30) days from the date of service of this Order, Plaintiff shall
15 either file the application to proceed in forma pauperis or pay the remaining \$395.00 of
16 the filing fee in full; and

17 (3) Failure to obey this order will result in a recommendation of dismissal of
18 this action. See Local Rule 110.

19 IT IS SO ORDERED.
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21 Dated: November 22, 2017

/s/ Michael J. Seng
22 UNITED STATES MAGISTRATE JUDGE
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