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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE E. JACOBS,
Plaintiff,
v.
CDCR,
Defendant.

Case No. 1:17-cv-01599-SKO (PC)
ORDER TO SHOW CAUSE WHY THE CASE SHOULD NOT BE DISMISSED BECAUSE OF PLAINTIFF’S UNTRUE ALLEGATION OF POVERTY IN FILING FOR *IN FORMA PAUPERIS* STATUS
(Doc. 2)
TWENTY-ONE (21) DAY DEADLINE

Plaintiff, George Jacobs, is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983, which he filed on December 4, 2017. (Doc. 1.) Along with the Complaint, Plaintiff filed a motion to proceed *in forma pauperis*. (Doc. 2.) Upon review, Plaintiff’s trust account reflects an increase from ten-thousand dollars (\$10,000.00) to over thirty-six-thousand dollars (\$36,000.00) in the months prior to the date that he 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 part, to pull his own oar.” *Doe v. Educ. Enrichment Sys.*, No. 15cv2628-MMA (MDD), 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. Dec. 30, 2015) (citing *Temple v. Ellerthorpe*, 586 F.

1 Supp. 848, 850 (D.R.I. 1984)). “[T]he court shall dismiss the case at any time if the court
2 determines the allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A). Plaintiff clearly was
3 not impoverished when he filed this action and his motion to proceed *in forma pauperis*.

4 Accordingly, it is **HEREBY ORDERED** to that **within twenty-one (21) days** of the date
5 of service of this order, Plaintiff shall show cause why his *in forma pauperis* status should not be
6 denied and this action dismissed without prejudice to refile with prepayment of the filing fee.
7 Alternatively, Plaintiff may file a notice of voluntary dismissal.

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9 IT IS SO ORDERED.

10 Dated: **December 8, 2017**

/s/ Sheila K. Olerto
UNITED STATES MAGISTRATE JUDGE

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