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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DALE OWEN DUSTIN,

 Plaintiff,

 v.

KERN VALLEY STATE PRISON
PERSONNEL,

 Defendant.

Case No. 1:19-cv-00989-LJO-SAB (PC)

ORDER VACATING ORDER TO SHOW
CAUSE ISSUED SEPTEMBER 16, 2019

(ECF No. 12)

ORDER GRANTING PLAINTIFF
ADDITIONAL TIME TO FILE
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS OR PAY FILING FEE

Plaintiff Dale Owen Dustin is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On June 26, 2019, Plaintiff initiated the instant action in the United States District Court for the Northern District of California. (ECF No. 1.) On July 17, 2019, the instant action was transferred to this Court. (ECF No. 4.) On July 22, 2019, the Court ordered Plaintiff to either submit an application to proceed *in forma pauperis*, or, in the alternative, pay the \$400.00 filing fee for this action, within forty-five days of the date of service of the order. (ECF No. 7.) Plaintiff failed to submit an application to proceed *in forma pauperis* or pay the \$400.00 filing fee within 45 days after service of the July 22, 2019 order.

Therefore, on September 16, 2019, the Court issued an order to show cause directing Plaintiff to either file an application to proceed *in forma pauperis*, pay the \$400.00 filing fee for

1 this action, or show cause in writing why this action should not be dismissed for failure to comply
2 with the Court's July 22, 2019 order. (ECF No. 12.)

3 On October 7, 2019, Plaintiff filed a written response to the order to show cause. (ECF
4 No. 13.) In his response, Plaintiff states that he has submitted his application to proceed *in forma*
5 *pauperis* to the Kern Valley State Prison trust office three separate times, requesting that the trust
6 office attach a certified copy of his prison trust account statement for the previous six months to
7 his *in forma pauperis* application and then mail both the application and the certified trust account
8 statement in the pre-addressed envelope to this Court.

9 However, Plaintiff does not need to submit a certified copy of his prison trust account
10 statement as a part of his application to proceed *in forma pauperis*. Instead, Plaintiff should
11 completely fill out the portions of the attached application to proceed *in forma pauperis* by a
12 prisoner form required to be completed by CDCR incarcerated prisoners and then submit the
13 completed application to the Court. Once the Court receives Plaintiff's completed application to
14 proceed *in forma pauperis*, the Court itself will obtain a certified copy of Plaintiff's prison trust
15 account statement directly from Kern Valley State Prison.

16 Therefore, the Court finds that the interests of justice require that Plaintiff be granted a
17 thirty (30) day extension of time to file a completed application to proceed *in forma pauperis* or
18 pay the \$400.00 filing fee for this action. In light of the extension of time, the order to show
19 cause issued on September 16, 2019 is hereby vacated.

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. The order to show cause issued on September 16, 2019, (ECF No. 12), is
22 VACATED;
- 23 2. In the interest of justice, Plaintiff is granted **thirty (30) days** from the date of
24 service of this order to either:
 - 25 a. Submit a completed application to proceed *in forma pauperis*; OR
 - 26 b. Pay the \$400.00 filing fee for this action;
- 27 3. The Clerk of the Court shall send Plaintiff a blank application to proceed *in forma*
28 *pauperis* by a prisoner; and

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4. No requests for extension of time will be granted without a showing of good cause;
5. Plaintiff is warned that failure to comply with this order will result in a recommendation to the District Judge that this action be dismissed for failure to pay the filing fee, failure to obey a court order, and failure to prosecute.

IT IS SO ORDERED.

Dated: October 8, 2019



UNITED STATES MAGISTRATE JUDGE