

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN JOSEPH SIMMONS,
Plaintiff,
v.
J. WUERTH, et al.,
Defendant.

No. 1:19-cv-01107-DAD-SAB (PC)

ORDER DISMISSING ACTION FOR
FAILURE TO PAY THE REQUIRED FILING
FEE

Plaintiff Melvin Joseph Simmons is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 2, 2020, the court issued an order denying plaintiff’s application to proceed *in forma pauperis* and directing him to pay the required filing fee within twenty-one days of service of that order. (Doc. No. 20.) The allotted twenty-one days have since passed, and plaintiff has not paid the required filing fee. Instead, on April 27, 2020, plaintiff filed objections to the court’s April 2, 2020 order, contending that he was “unjustly convicted and intentionally placed in imminent danger under the FALSE LIGHT.” (Doc. No. 21 at 2.) Setting aside the confusing and conclusory nature of plaintiff’s objection, the court notes that it has previously explained to plaintiff that his complaint does not allege that he was in imminent danger at the time his complaint in this action was filed, and that he therefore does not meet the imminent danger

1 exception to the three strikes provision of 28 U.S.C. § 1915(g). (*See* Doc. No 20 at 2–3.)
2 Plaintiff’s April 27, 2020 objections do not call into question the court’s conclusion in that
3 regard.¹

4 Accordingly,

- 5 1. This case is dismissed without prejudice due to plaintiff’s failure to pay the
6 required \$400.00 filing fee;
- 7 2. Plaintiff’s pending “MOTION for Order to Show Cause for a PRELIMINARY
8 INJUNCTION and Temporary Restraining Order” (Doc. No. 15) is denied as
9 having been rendered moot by the issuance of this order; and
- 10 3. The Clerk of the Court is directed to close this case.

11 IT IS SO ORDERED.

12 Dated: May 5, 2020

13 
14 _____
15 UNITED STATES DISTRICT JUDGE

16
17
18
19
20
21
22
23
24
25
26 _____
27 ¹ In his objections, plaintiff continues to argue that the court’s use of “Jr.” as part of his name is
28 “improper” and “reflects an inaccurate designation of the Plaintiff’s legal personality.” (Doc. No.
21 at 1.) As discussed in the April 2, 2020 order, however, the court has stopped using “Jr.” in
plaintiff’s name on the docket in this case and in the caption of any court orders. (Doc. No. 20 at
3.)