

1 **II. DISCUSSION**

2 The Court takes judicial notice of four of Plaintiff’s prior actions that were dismissed
3 because they were frivolous or failed to state a claim on which relief can be granted¹: (1)
4 *Chatman v. Dillion, et al.*, No. 2:04-cv-02654-FCD-DAD (E.D. Cal.) (dismissed on August 19,
5 2005, as frivolous and for failure to state a claim); (2) *Chatman v. Bradford, et al.*, No. 2:05-cv-
6 01571-FCD-GGH (E.D. Cal.) (dismissed on August 24, 2006, for failure to file an amended
7 complaint, after the court dismissed the original complaint for failure to state a claim²); (3)
8 *Chatman v. Solano County Jail, et al.*, No. 2:04-cv-02655-MCE-GGH (E.D. Cal) (dismissed on
9 August 30, 2006, for failure to file an amended complaint, after the court dismissed the original
10 complaint for failure to state a claim); and, (4) *Chatman v. Dillion, et al.*, No. 2:19-cv-02171-
11 WBS-AC (E.D. Cal.) (dismissed without prejudice³ on January 29, 2020, for failure to file an
12 amended complaint, after the court dismissed the original complaint for failure to state a claim).
13 All of these cases were dismissed before Plaintiff initiated the current action on July 1, 2020.
14 Plaintiff is therefore precluded from proceeding *in forma pauperis* unless, at the time he filed his
15 complaint, he was under imminent danger of serious physical injury. *See Andrews v. Cervantes*,
16 493 F.3d 1047, 1052-53 (9th Cir. 2007).

17 Plaintiff alleges that prison officials deprived him of “good conduct credits,” thereby
18 subjecting him to incarceration past the date he should be released. (*See* Doc. 1 at 3.) Plaintiff
19 sues the director of the California Department of Corrections and Rehabilitation; the warden of
20 Substance Abuse Treatment Facility and State Prison, Corcoran (SATF); and two records analysts
21 at SATF. (*Id.* at 2.) Plaintiff does not provide any factual allegations that show that he was in
22 imminent danger of physical injury at the time he filed suit.

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26 ¹ The Court may take judicial notice of court records. *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).

27 ² When a “court dismisses a complaint on the ground that it fails to state a claim, ... the court grants leave to amend, and ... the plaintiff then fails to file an amended complaint, the dismissal counts as a strike.” *Harris v. Mangum*, 863 F.3d 1133, 1143 (9th Cir. 2017).

28 ³ “A dismissal of a suit for failure to state a claim counts as a strike, whether or not with prejudice.” *Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1727 (2020).

