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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERICK EDDIE RODRIGUEZ,

Plaintiff,

v.

M. CATE, et al.,

Defendants.

Case No.: 1:21-cv-00898-SKO (PC)

**ORDER TO SHOW CAUSE WHY MOTION
TO PROCEED *IN FORMA PAUPERIS*
SHOULD NOT BE DENIED**

21-DAY DEADLINE

Plaintiff Erick Eddie Rodriguez initiated this action on September 10, 2019. (Doc. 1.) On that same date, Plaintiff filed a motion to proceed *in forma pauperis* (“IFP”). (Doc. 2.) On June 4, 2021, Magistrate Judge Allison Claire issued an order transferring this case to the Fresno Division of the Eastern District of California. (Doc. 15.) The Court has not yet ruled on Plaintiff’s motion to proceed IFP.

According to the certified account statement submitted by the California Department of Corrections and Rehabilitation, Plaintiff had \$842.91 on the date he filed his application to proceed IFP. (Doc. 6) This is more than enough to pay the \$402 filing fee in this action. Therefore, Plaintiff must show why he is entitled to proceed *in forma pauperis*.

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 *in forma pauperis*, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed

1 care must be employed to assure that federal funds are not squandered to underwrite, at public
2 expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole
3 or in material part, to pull his own oar,” *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-
4 MDD, 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. 2015) (citation omitted). Hence, “the court
5 shall dismiss the case at any time if the court determines that the [plaintiff’s] allegation of poverty
6 is untrue.” 28 U.S.C. § 1915(e)(2)(A).

7 Plaintiff appears to have had adequate funds to pay the filing fee for this action when he
8 filed his application to proceed *in forma pauperis*. Accordingly, the Court ORDERS Plaintiff,
9 **within 21 days** of the date of service of this order, to show cause in writing why his motion to
10 proceed IFP should not be denied. **Failure to respond to this order may result in a**
11 **recommendation that this action be dismissed for failure to obey a court order.**

12 IT IS SO ORDERED.

13
14 Dated: **June 8, 2021**

/s/ Sheila K. Overt
UNITED STATES MAGISTRATE JUDGE