



1 from proceeding *in forma pauperis* unless they are under imminent danger of serious physical  
2 injury. 28 U.S.C. § 1915(g); *Andrews v. Cervantes*, 493 F.3d 1047, 1050 (9th Cir. 2007). The  
3 statute provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the  
4 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought  
5 an action or appeal in a court of the United States that was dismissed on the grounds that it is  
6 frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner  
7 is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

### 8 **III. Discussion**

9 As noted above, Plaintiff has neither paid the filing fee for this action nor requested leave  
10 to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. A review of court records reveals  
11 that Plaintiff is subject to 28 U.S.C. § 1915(g).<sup>1</sup>

12 The Court has reviewed Plaintiff’s complaint and finds that his allegations do not satisfy  
13 the imminent danger exception to section 1915(g).<sup>2</sup> *Andrews*, 493 F.3d at 1053–55. Though the  
14 complaint is thirty pages in length, Plaintiff’s allegations can be summarized as raising claims  
15 related to inadequate access to the law library and inadequate access to ADA workers, resulting in  
16 denial of Plaintiff’s access to the courts. Plaintiff also alleges that he is being discriminated  
17 against on the basis of his race and disability in the assignment of prison jobs, and that he did not  
18 receive a COVID-19 stimulus check. Although Plaintiff includes language regarding the legal

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20 <sup>1</sup> The Court takes judicial notice of the following United States District Court cases: (1) *Ripple v. Gomez*,  
21 Case No. 1:96-cv-05284-REC-SMS (E.D. Cal.) (dismissed on April 29, 1996 as frivolous); (2) *Harris v. Rehnquist*,  
22 Case No. 1:96-cv-01304-UNA (D.D.C.) (dismissed on June 11, 1996 for failure to state a claim); (3) *Harris v.*  
23 *Higgins*, Case No. 1:96-cv-01420-UNA (D.D.C.) (dismissed on June 19, 1996 for failure to state a claim); (4) *Harris*  
24 *v. Hickey*, Case No. 1:96-cv-05770-GEB-HGB (E.D. Cal.) (dismissed on April 7, 1997 as frivolous); (5) *Harris v.*  
25 *Hickey*, Case No. 1:97-cv-05186-REC-HBG (E.D. Cal.) (dismissed on July 28, 1997 as frivolous); (6) *Harris v.*  
26 *Coyle*, Case No. 1:97-cv-05508-AWI-DLB (E.D. Cal.) (dismissed on January 21, 1999 as frivolous, as malicious,  
27 and for failure to state a claim); (7) *Harris v. Glass*, Case No. 2:00-cv-00937-DFL-DAD (E.D. Cal.) (dismissed on  
28 August 17, 2000 for failure to state a claim); (8) *Harris v. Edmonds*, Case No. 1:00-cv-05857-OWW-LJO (E.D. Cal.)  
(dismissed on November 27, 2000 for failure to state a claim); (9) *Harris v. Pliler*, Case No. 2:01-cv-01125-WBS-  
DAD (E.D. Cal.) (dismissed on March 15, 2002 for failure to state a claim); (10) *Harris v. Edmonds*, Case No. 1:00-  
cv-07160-REC-SMS (E.D. Cal.) (dismissed on May 24, 2002 for failure to state a claim); (11) *Harris v. Virga*, Case  
No. 2:13-cv-00932-GEB-AC (E.D. Cal.) (dismissed on July 8, 2013 as frivolous); (12) *Harris v. Harris*, Case No.  
2:14-cv-00977-KJM-KJN (E.D. Cal.) (dismissed on July 31, 2014 as frivolous and for failure to state a claim); and  
(13) *Harris v. Campbell*, Case No. 1:18-cv-01659-DAD-JLT (E.D. Cal.) (dismissed on April 30, 2020 for failure to  
state a claim and failure to obey a court order).

<sup>2</sup> The Court expresses no opinion on the merits of Plaintiff’s claims.

1 standards for filing of a claim against a defendant who is deliberately indifferent to a substantial  
2 risk of serious harm to an inmate, Plaintiff does not actually allege that any defendant was  
3 deliberately indifferent or that Plaintiff faces any risk of harm. (See ECF No. 1, pp. 23.)

4 Accordingly, Plaintiff has failed to allege that he was in any imminent danger of serious  
5 physical injury at the time the complaint was filed. Plaintiff has not satisfied the exception from  
6 the three strikes bar under 28 U.S.C. § 1915(g), and Plaintiff should be required to pay the  
7 \$402.00 filing fee if he wishes to litigate this action.

8 **IV. Order and Recommendation**

9 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a  
10 District Judge to this action.

11 Further, it is HEREBY RECOMMENDED that Plaintiff be ordered to pay the \$402.00  
12 initial filing fee in full to proceed with this action.

13 These Findings and Recommendations will be submitted to the United States District  
14 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
15 **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may  
16 file written objections with the court. The document should be captioned “Objections to  
17 Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that the failure to file  
18 objections within the specified time may result in the waiver of the “right to challenge the  
19 magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)  
20 (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

21  
22 IT IS SO ORDERED.

23 Dated: November 22, 2021

24 /s/ Barbara A. McAuliffe  
25 UNITED STATES MAGISTRATE JUDGE  
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