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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN E. WEST,

Plaintiff,

No. CIV S-09-1532 EFB P

vs.

JAMES A. YATES, Warden,

Defendant.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1). Plaintiff has submitted a request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a).

This action proceeds on the January 1, 2009 complaint, in which plaintiff makes vague factual allegations involving mail tampering and withholding.

The Prison Litigation Reform Act provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in a facility, brought an action or appeal in a court of the United States that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious injury.” 28 U.S.C.

1 § 1915(g). This plaintiff has, on three prior occasions, brought civil actions challenging the
2 conditions of his confinement. All three action were dismissed as frivolous, or for failure to state
3 a claim upon which relief can be granted. Among the dismissals suffered by plaintiff that count
4 as strikes under 1915(g) are: *West v. Climites*, No 1:02-cv-6437-REC WMW PC; *West v. Yates,*
5 *et al.*, No. 1:05-cv-1554 OWW SMS PC; and *West v. Lamarque et al.*, No. 1:06-cv-0628-LJO-
6 WMW PC. Plaintiff is therefore not entitled to proceed *in forma pauperis* unless he alleges facts
7 indicating imminent danger of serious injury. Plaintiff alleges no such facts in this case.

8 Accordingly, IT IS ORDERED that plaintiff show cause, within thirty days, why he
9 should not be denied leave to proceed *in forma pauperis* and directed to pay the filing fee in full.

10 Dated: April 19, 2010.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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