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

REGINALD COLBERT,  
Plaintiff,

No. CIV S-09-1569-CMK-P

vs.

ORDER

M. BANKS,  
Defendant.

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for leave to proceed in forma pauperis (Doc. 2).

Section 1915(g) of Title 28 of the United States Code provides in pertinent part as follows:

In no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it . . . fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

///

1 In the complaint, plaintiff lists several prior civil rights cases filed in this court. Three of them  
2 were dismissed for failure to state a claim and, thus, constitute “strikes” under § 1915(g). See  
3 07-1456 (judgment entered on 7-23-2008), 04-5262 (judgment entered on 9-26-2005), and 04-  
4 6417 (judgment entered on 1-23-2006 and affirmed by Ninth Circuit on 9-10-2007). Plaintiff’s  
5 complaint does not allege imminent danger of serious physical injury. Therefore, plaintiff is not  
6 entitled to leave to proceed in forma pauperis in this action.

7 Plaintiff must pay the full statutory filing fee of \$350.00 before this action can  
8 proceed. In addition, should the court find that service of the complaint is appropriate, plaintiff  
9 will be required to effect personal service on defendants at his own expense. Plaintiff is advised  
10 that failure to pay the filing fees, or effect timely service if ordered to do so, may result in  
11 dismissal of the action for lack of prosecution and failure to comply with court rules and orders.  
12 See Local Rule 11-110.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Plaintiff’s request for leave to proceed in forma pauperis (Doc. 2) is  
15 denied pursuant to 28 U.S.C. § 1915(g) because he has three or more prior “strikes”; and

16 2. Within 30 days of the date of this order, plaintiff shall pay to the court the  
17 entire statutory filing fee of \$350.00.

18  
19 DATED: July 6, 2009

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21 **CRAIG M. KELLISON**  
22 UNITED STATES MAGISTRATE JUDGE  
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