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

MIKA ALFARO,

Plaintiff,

vs.

CIV S-09-3595 FCD KJM PS

LETICIA MARIN,

Defendant.

ORDER AND

ORDER TO SHOW CAUSE

_____/

Plaintiff has not paid the fee ordinarily required to file an action in this court, and previously filed an incomplete application to proceed without prepayment of fees. See 28 U.S.C. §§ 1914(a), 1915(a). Plaintiff was directed to file a complete application and failed to timely do so. Findings and recommendations were filed recommending dismissal of the action due to plaintiff's failure to comply with the court's order. Plaintiff has now filed another application. The findings and recommendations will therefore be vacated.

Plaintiff states she receives rents, pensions or life insurance payments, disability payments, and gifts or inheritances but still does not state the amounts. Plaintiff does indicate, however, that she has \$598,000.00 in checking and savings accounts.

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1 Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil
2 action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the
3 commencement of an action "without prepayment of fees and costs or security therefor, by a
4 person who makes affidavit that he is unable to pay such costs or give security therefor." 28
5 U.S.C. § 1915(a). The amount of plaintiff's assets shows that plaintiff is able to pay the filing fee
6 and costs. Thus, plaintiff has made an inadequate showing of indigency. See Alexander v.
7 Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993); California Men's Colony v. Rowland, 939
8 F.2d 854, 858 (9th Cir. 1991); Stehouwer v. Hennessey, 841 F. Supp. 316, (N.D. Cal. 1994).
9 Plaintiff will therefore be granted twenty-one days in which to submit the appropriate filing fee
10 to the Clerk of the Court. Plaintiff is cautioned that failure to pay the fee will result in a
11 recommendation that the application to proceed in forma pauperis be denied and the instant
12 action be dismissed without prejudice.

13 In the complaint filed December 29, 2009, and in an affidavit filed March 17,
14 2010, plaintiff complains of harassment by an individual. There is no basis evident in any of
15 plaintiff's pleadings for subject matter jurisdiction. The federal courts are courts of limited
16 jurisdiction. In the absence of some basis for federal jurisdiction, this action cannot proceed in
17 federal court. Plaintiff will therefore be given an opportunity to explain the basis for subject
18 matter jurisdiction.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The findings and recommendations filed February 23, 2010 are vacated.
- 21 2. Within twenty-one days from the date of this order, plaintiff shall submit the
22 appropriate filing fee.
- 23 3. Within twenty-one days from the date of this order, plaintiff shall show cause
24 why this action should not be dismissed for lack of subject matter jurisdiction.

25 DATED: April 2, 2010.

26 006/alfaro-marin.den.osc


U.S. MAGISTRATE JUDGE