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

FREDERIC MILLER,

Plaintiff,

vs.

CIV S-10-834 LKK KJM PS

DENNIS JONES,

Defendant.

ORDER

_____ /

Plaintiff is proceeding pro se. Plaintiff has filed an in forma pauperis affidavit in which he states that he is self-employed and receives a monthly cash draw of \$300, pension payments of \$1,467 and disability payments of \$125.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action "without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor." 28 U.S.C. § 1915(a). Plaintiff has now filed two applications to proceed in forma pauperis. It is unclear from plaintiff's filings whether he owns his home, which on the first application he indicates is worth more than \$400,000, or whether he pays rent or has a mortgage payment. In addition, the second application indicates he supports his wife but it is unclear whether the

1 amount he lists is in addition to the amounts he indicates he expends on a monthly basis. From
2 the record before the court, it appears plaintiff is able to pay the filing fee and costs. Thus,
3 plaintiff has made an inadequate showing of indigency. See Alexander v. Carson Adult High
4 Sch., 9 F.3d 1448 (9th Cir. 1993); California Men's Colony v. Rowland, 939 F.2d 854, 858 (9th
5 Cir. 1991); Stehouwer v. Hennessey, 841 F. Supp. 316, (N.D. Cal. 1994). Plaintiff will therefore
6 be granted twenty-one days in which to submit the appropriate filing fee to the Clerk of the
7 Court. Plaintiff is cautioned that failure to pay the fee will result in a recommendation that the
8 application to proceed in forma pauperis be denied and the instant action be dismissed without
9 prejudice.

10 Accordingly, IT IS HEREBY ORDERED that, within twenty-one days from the
11 date of this order, plaintiff shall submit the appropriate filing fee.

12 DATED: June 29, 2010.

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17 U.S. MAGISTRATE JUDGE
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