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

ALTON E. DEAN,

Plaintiff,

No. 2:10-cv-1355 JFM (PC)

vs.

KATHRYN M. GONZALES,

Defendant.

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983 together with an application to proceed in forma pauperis pursuant to 28 U.S.C. §1915.

Review of court records reveals that on at least three occasions prior to the filing of this action lawsuits filed by plaintiff in this district were dismissed on the grounds that they were frivolous or malicious or failed to state a claim upon which relief may be granted.¹ See Order filed on March 6, 2003 in Dean v. Blanas, No. CIV 2:02-1122-LKK-GGH (E.D. Cal.); order filed March 22, 1999 in Dean v. Sullivan, No. CIV 2:98-0717-LKK-DAD (E.D. Cal.); and order filed January 8, 2004 in Dean v. Andreasen, MD., No. CIV 2:02-0881-DFL-GGH.

¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

1 A prisoner may not bring a civil action or appeal a civil judgment under the in
2 forma pauperis statute

3 if the prisoner has, on 3 or more prior occasions, while
4 incarcerated or detained in any facility, brought an action or appeal
5 in a court of the United States that was dismissed on the grounds
6 that it is frivolous, malicious, or fails to state a claim upon which
7 relief may be granted, unless the prisoner is under imminent
8 danger of serious physical injury.

9 28 U.S.C. § 1915(g). In the present case, plaintiff has not alleged facts that suggest he is under
10 imminent danger of serious physical injury. Thus, plaintiff must pay the filing fee in order to
11 proceed with this case.

12 In accordance with the above, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's July 8, 2010 application to proceed in forma pauperis is denied;
- 14 2. Plaintiff shall submit, within twenty days from the date of this order, the
15 \$350.00 filing fee for this action; and
- 16 3. Plaintiff's failure to comply with this order will result in a recommendation
17 that this action be dismissed.

18 DATED: July 20, 2010.

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UNITED STATES MAGISTRATE JUDGE

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