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

FRANK GALLARDO,

Plaintiff,

No. CIV S-11-1230 WBS DAD P

vs.

M. CATE, et al.,

Defendants.

ORDER

_____ /

On May 3, 2011, plaintiff, a former state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. In his complaint plaintiff alleges that he was denied equal access to educational opportunities while imprisoned at Mule Creek State Prison in violation of his right to equal protection under the law. Doc. No. 1 at 3. On May 23, 2011, plaintiff filed a notice of change of address with the court which indicates that plaintiff is no longer in custody. Because plaintiff has been released from custody, his application to proceed in forma pauperis is no longer current. Therefore, the court will order plaintiff to submit the \$350.00 filing fee or a new application to proceed in forma pauperis by a non-prisoner. See 28 U.S.C. §§ 1914(a), 1915(a).

However, plaintiff is cautioned that should he proceed with this action, it is likely that findings and recommendations will issue recommending that his complaint be dismissed for

1 failure to state a cognizable claim. In this regard, plaintiff is advised that prisoners do not have a
2 constitutional right to educational or vocational programs. Hoptowit v. Ray, 682 F.2d 1237,
3 1255 (9th Cir. 1982); see also Bauman v. Arizona Department of Corrections, 754 F.2d 841, 846
4 (9th Cir. 1985).

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

6 1. Plaintiff shall submit, within thirty days from the date of this order, an affidavit
7 in support of his request to proceed in forma pauperis on the form provided by the Clerk of
8 Court, or the \$350.00 filing fee; plaintiff's failure to comply with this order will result in the
9 dismissal of this action; and

10 2. The Clerk of the Court is directed to send plaintiff an Application to Proceed
11 In Forma Pauperis By a Non-Prisoner.

12 DATED: November 28, 2011.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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