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

MARVIN HARRIS,

Plaintiff,

No. CIV 2:11-cv-2869-KJM-JFM (PC)

vs.

TOM V. VIRGA, *et al.*,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. However, plaintiff has not paid the \$350 filing fee. See 28 U.S.C. § 1914(a). Ordinarily, plaintiff would have the option of seeking leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This option is not available to plaintiff as he has “struck out” under 28 U.S.C. 1915(g). See March 22, 2010 order in Harris v. Reynolds, CIV-09-1817 JAM DAD P. Under 28 U.S.C. 1915(g), plaintiff could still proceed in forma pauperis if he is in “imminent danger of serious physical harm.” Although plaintiff claims he is in imminent danger of serious physical harm, there is no reasonable suggestion in plaintiff’s complaint that he is in such danger.

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In accordance with the above, IT IS HEREBY ORDERED that plaintiff's November 9, 2011 motion to proceed in forma pauperis is denied and plaintiff shall pay the \$350 filing fee for this action within twenty-one days. Failure to pay the filing fee will result in a recommendation that this action be dismissed.

DATED: December 22, 2011.


UNITED STATES MAGISTRATE JUDGE

/014:harr0289.3a