

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

DAVID EUGENE GIVENS,

No. CIV S-12-0688-CMK-P

Plaintiff,

vs.

ORDER

W. KNIPP,

Defendant.

\_\_\_\_\_ /

Plaintiff, a state prisoner, brings this action *in propria persona*. Plaintiff has consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c) and no other party has been served or appeared in the action. On October 4, 2012, the court issued an order denying plaintiff's application to leave to proceed in forma pauperis and ordering plaintiff to show cause why this action should not be dismissed without prejudice to re-filing upon pre-payment of the filing fees.

The court outlined that the Southern District of California has already determined that plaintiff has had at least three other cases dismissed for failure to state a claim, and is barred from proceeding in forma pauperis in the federal courts. Thus, plaintiff is ineligible to proceed in this action without the prepayment of the filing fees. Plaintiff was warned that failure to respond

1 to the order to show cause may result in the dismissal of this action for the reasons outlined as  
2 well as for failure to prosecute and comply with court rules and orders. See Local Rule 110.

3 Plaintiff has not responded to the court's order as directed. The undersigned finds  
4 it appropriate to dismiss this action for plaintiff's failure to pre-pay the filing fee, after finding  
5 plaintiff ineligible to proceed in forma pauperis, and for plaintiff's failure to comply with court  
6 order.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This action is dismissed; and
- 9 2. The Clerk of the Court is directed close this case.

10  
11 DATED: November 1, 2013

12   
13 **CRAIG M. KELLISON**  
14 UNITED STATES MAGISTRATE JUDGE  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26