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

WILLIE WEAVER,

Plaintiff,

No. 2:12-cv-01092 MCE KJN P<sup>1</sup>

vs.

CAPTAIN, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding without counsel. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302.<sup>1</sup>

Plaintiff is subject to the “three strikes rule” set forth in 28 U.S.C. § 1915(g), which precludes a plaintiff from proceeding in forma pauperis absent a showing that he is in imminent danger of serious physical injury. Pursuant to this rule, plaintiff has repeatedly been found barred from proceeding in forma pauperis in this district. See e.g. Weaver v. California

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<sup>1</sup> This action is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local General Order No. 262, and Local Rule 302.

1 Correctional Institution, et al., Case No. 1:06-cv-01429 OWW SMS P (E.D. Cal. 2007 ) (Dkt.  
2 No. 4 at 1 n.1); Weaver v. Nguyen, Case No. 1:11-cv-0011 KJN P (E.D. Cal. 2011) (Dkt. No. 4);  
3 Weaver v. Gillen, Case No. 2:11-cv-2126 JAM GGH P (E.D. Cal. 2012) (Dkt. Nos. 5, 6, 7).<sup>2</sup>  
4 Moreover, plaintiff is listed as three-strikes barred in the National Pro Se Three-Strikes  
5 Database.<sup>3</sup>

6 In the instant complaint, plaintiff challenges his continued detention in the  
7 Sacramento County Main Jail, on the ground that he is “being held in jail for something I haven’t  
8 done. . . .” (Dkt. No. 1 at 3), claims which do not appear to be cognizable in a federal civil rights  
9 action. Plaintiff does not allege that he is in imminent danger of serious physical injury.  
10 Accordingly, plaintiff must pay the \$350.00 filing fee before this action can proceed. Plaintiff is  
11 cautioned that failure to pay the filing fee will result in a recommendation that this action be  
12 dismissed.

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

- 14 1. Plaintiff’s motion to proceed in forma pauperis (Dkt. No. 7), is denied;  
15 2. Plaintiff shall submit, within twenty-one days after the filing date of this order,  
16 the full \$350.00 filing fee for this action; and  
17 3. Plaintiff’s failure to comply with this order will result in a recommendation  
18 that this action be dismissed.

19 DATED: June 12, 2012

20   
21 KENDALL J. NEWMAN  
22 UNITED STATES MAGISTRATE JUDGE

22 weav1092.3strikes

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24  
25 <sup>2</sup> 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).

26 <sup>3</sup> National Pro Se Three-Strikes Database, <http://nprose.circ9.dcn/Litigant.aspx>.