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

LEON E. MORRIS,

Plaintiff,

No. 2:13-cv-1171 KJN P

vs.

GUFFEE, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not, however, filed an in forma pauperis application or paid the required filing fee. See 28 U.S.C. §§ 1914(a), 1915(a). Therefore, plaintiff will be provided the opportunity to submit either the appropriate application and affidavit in support of a request to proceed in forma pauperis, OR the appropriate filing fee for proceeding with a prisoner civil rights action (\$350.00).

However, plaintiff is informed that the court’s consideration of his in forma pauperis application will be subject to the requirements of Section 1915(g), title 28, United

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1 States Code, which provides in full:

2 In no event shall a prisoner bring a civil action or appeal a
3 judgment in a civil action or proceeding under this section if the
4 prisoner has, on 3 or more prior occasions, while incarcerated or
5 detained in any facility, brought an action or appeal in a court of
6 the United States that was dismissed on the grounds that it is
7 frivolous, malicious, or fails to state a claim upon which relief may
8 be granted, unless the prisoner is under imminent danger of serious
9 physical injury.

10 28 U.S.C. § 1915(g). Plaintiff has previously “struck out” under Section 1915(g). See Morris v.
11 Jennings, Case 2:12-cv-02240 GEB CKD P (ECF No. 11), and cases cited therein. As a result,
12 plaintiff may not proceed in forma pauperis in the instant action without a plausible allegation in
13 his complaint that he was in imminent danger of serious physical injury at the time he filed the
14 complaint. Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007).

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


16 1. Plaintiff shall, within thirty days after the filing date of this order, submit an
17 application in support of his request to proceed in forma pauperis, on the form provided by the
18 Clerk of Court, OR the full filing fee;

19 2. Plaintiff’s failure to comply with this order will result in the dismissal of this
20 action; and

21 3. The Clerk of the Court is directed to send plaintiff a new Application to
22 Proceed In Forma Pauperis By a Prisoner.

23 SO ORDERED.

24 DATED: June 21, 2013

25 
26 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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