

1 1:06-cv-01429 OWW SMS P, 2007 U.S. Dist. LEXIS 32826 (E.D. Cal. Apr. 20, 2007) (order
2 dismissing action as frivolous and malicious); (2) *Weaver v. CCI-Tehachapi*, No. 1:04-cv-6079
3 LJO WMW P (E.D. Cal. Dec. 7, 2007) (order dismissing action for failure to state a claim); and
4 (3) *Weaver v. Appeal Coordinator*, No. 1:06-cv-0134 OWW DLB P, 2006 U.S. Dist. LEXIS
5 61532 (E.D. Cal. Aug 28, 2006) (order dismissing action for failure to state a claim). *See also*
6 *Weaver v. Sacramento County Main Jail*, No. 2:13-cv-1260-TLN-EFB (Sept. 16, 2013, E.D. Cal.)
7 (order designating plaintiff a three-strikes litigant for purposes of section 1915(g), denying
8 application to proceed in forma pauperis, and dismissing case); *Weaver v. Gillen*, No. 2:13-cv-
9 1183-TLN-EFB (Sept. 16, 2013, E.D. Cal.) (same); *Weaver v. Connelly*, No. 2:13-cv-1470-MCE-
10 EFB (Aug. 26, 2013, E.D. Cal.) (same); *Weaver v. Deuel Vocational Institute*, No. 2:13-cv-1471-
11 MCE-EFB (Aug. 26, 2013, E.D. Cal.) (same).

12 The section 1915(g) exception applies if the complaint makes a plausible allegation that
13 the prisoner faced “imminent danger of serious physical injury” at the time of filing. 28 U.S.C.
14 § 1915(g); *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007). For the exception to
15 apply, the court must look to the conditions the “prisoner faced at the time the complaint was
16 filed, not at some earlier or later time.” *Andrews*, 493 F.3d at 1053, 1056 (requiring that prisoner
17 allege “an ongoing danger” to satisfy the imminency requirement). Courts need “not make an
18 overly detailed inquiry into whether the allegations qualify for the exception.” *Id.* at 1055.

19 In the complaint, plaintiff seeks fifteen million dollars in compensatory and punitive
20 damages on the grounds that he was falsely arrested and imprisoned. ECF No. 1. Plaintiff’s
21 allegations do not demonstrate that he suffered from imminent danger of serious physical injury
22 at the time he filed his complaint. Thus, the imminent danger exception does not apply.

23 Because plaintiff has not paid the filing fee and is not eligible to proceed *in forma*
24 *pauperis*, this action must be dismissed.

25 Accordingly, it is hereby RECOMMENDED that this action be dismissed without
26 prejudice to re-filing upon pre-payment of the \$400 filing fee.

27 These findings and recommendations are submitted to the United States District Judge
28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
4 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
5 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: August 4, 2014.

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9 EDMUND F. BRENNAN
10 UNITED STATES MAGISTRATE JUDGE
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