



1 GEB-CMK (Oct. 31, 2006 E.D. Cal.) (order dismissing action for failure to state a claim); (2)  
2 *Wilson v. Dovey*, No. 2:06-cv-1032-FCD-EFB (Mar. 8, 2007 E.D. Cal.) (order dismissing action  
3 for failure to state a claim); and (3) *Wilson v. Dovey*, No. 2:06-cv-2553-JKS-EFB (Mar. 11, 2008  
4 E.D. Cal.) (order dismissing action for failure to state a claim). *See also Wilson v. Hubbard*, No.  
5 2:07-cv-1558-WBS-GGH (Oct. 16, 2009 E.D. Cal.) (order designating plaintiff a three strikes  
6 litigant for purposes of section 1915(g)).

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

14 In the complaint, plaintiff claims that his right to practice his religion is burdened by  
15 restrictions on his access to religious oils. ECF No. 1. His allegations do not demonstrate that he  
16 suffered from imminent danger of serious physical injury at the time he filed his complaint.  
17 Thus, the imminent danger exception does not apply.

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

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

22 These findings and recommendations are submitted to the United States District Judge  
23 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
24 after being served with these findings and recommendations, any party may file written  
25 objections with the court and serve a copy on all parties. Such a document should be captioned  
26 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections

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1 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
2 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: October 7, 2014.

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5 EDMUND F. BRENNAN  
6 UNITED STATES MAGISTRATE JUDGE  
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