

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

## MOODY WOODROW TANKSLEY,

No. 2:14-cv-2299-EFB P

Plaintiff,

## ORDER<sup>1</sup>

THE SACRAMENTO CALIFORNIA  
POLICE BLACKS AND WHITES  
DEPARTMENT, et al.,

## Defendants.

Plaintiff Moody Woodrow Tanksley is a county inmate proceeding without counsel in an action brought under 42 U.S.C. § 1983. He seeks leave to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a). For the reasons explained below, he has not demonstrated he is eligible to proceed in forma pauperis.

A prisoner may not proceed in forma pauperis:

if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

<sup>1</sup> This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff's consent. *See* E.D. Cal. Local Rules, Appx. A, at (k)(4).

1 28 U.S.C. § 1915(g). Court records reflect that on at least three prior occasions, plaintiff has  
2 brought actions while incarcerated that were dismissed as frivolous, malicious, or for failure to  
3 state a claim upon which relief may be granted. *See* (1) *Tanksley v. Tulare County Sheriff*, No.  
4 1:03-cv-6593-AWI-WMW (E.D. Cal. July 7, 2006) (order dismissing action for failure to state a  
5 claim); (2) *Tanksley v. CDCR*, No. 2:08-cv-1608-GSA (E.D. Cal. Feb. 12, 2009) (order  
6 dismissing action for failure to state a claim); (3) *Tanksley v. Avenal State Prison*, No. 1:08-cv-  
7 0442-OWW-DLB (E.D. Cal. June 3, 2009) (order dismissing action for failure to state a claim);  
8 (4) *Tanksley v. The People of The State of California*, No. 1:09-cv-643-DLB, (E.D. Cal. Apr. 6,  
9 2010) (order dismissing action for failure to state a claim); and (5) *Tanksley v. Blackwell*, No.  
10 1:08-cv-0093-OWW-GBC (E.D. Cal. Feb. 9, 2011) (order dismissing action for failure to state a  
11 claim).

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 Plaintiff was confined to county jail at the time he filed his complaint. His claims do not  
20 pertain to events or conditions at the jail but instead allege that prior to his incarceration, between  
21 August 2013 and September 2014, he called 9-1-1 when street gang members threatened to kill  
22 him if he did not leave Sacramento. He alleges that the police did nothing to help him. Plaintiff’s  
23 allegations do not demonstrate that he suffered from an ongoing or imminent danger of serious  
24 physical injury at the time he filed his complaint on October 2, 2014. Thus, the imminent danger  
25 exception does not apply. Plaintiff’s application for leave to proceed in forma pauperis must  
26 therefore be denied pursuant to § 1915(g).

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1 Accordingly, it is hereby ORDERED that

- 2 1. Plaintiff's application to proceed in forma pauperis (ECF No. 2) is denied; and
- 3 2. This action is dismissed without prejudice to re-filing upon pre-payment of the \$400
- 4 filing fee.

5 DATED: April 27, 2015.



6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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