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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MOODY WOODROW TANKSLEY,

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

12 Plaintiff,

13 v.

ORDER¹

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

16 Defendants.
17

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

22 A prisoner may not proceed in forma pauperis:

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

27 ¹ This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C.
28 § 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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Accordingly, it is hereby ORDERED that

1. Plaintiff's application to proceed in forma pauperis (ECF No. 2) is denied; and

2. This action is dismissed without prejudice to re-filing upon pre-payment of the \$400 filing fee.

DATED: April 27, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE