

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY BARGER,
Plaintiff,
v.
DIRECTOR CDCR,
Defendants.

No. 2:14-cv-2525 KJN P

ORDER

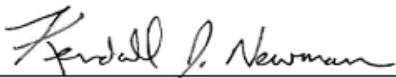
Plaintiff Gary Barger, also known as Gary Francis Fisher, is a state prisoner proceeding without counsel. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Review of court records reveals that on at least three prior occasions lawsuits filed by the plaintiff have been dismissed on the grounds that they were frivolous or malicious or failed to state a claim upon which relief may be granted. See Orders filed March 6, 2014, in Fisher v. Bivens, Six Unknown Agents, 2:14-cv-1439-UA-MAN (C.D. Cal.) (failure to state a claim); December 20, 2013, Barger v. Casey, 2:13-cv-08889-UA-MAN (C.D. Cal.) (frivolous, malicious or fails to state a claim upon which relief may be granted); November 21, 2013, in Barger v. FBI, 1:13-cv-0535 DLB (E.D. Cal.) (failure to state a claim); and July 26, 2013, in Fisher v. FBI, 1:13-cv-0414 LJO SAB (E.D. Cal.) (adopting June 17, 2013 findings that deficiencies in plaintiff's

1 amended complaint cannot be cured by the allegation of other facts). Accordingly, plaintiff is
2 precluded from proceeding in forma pauperis in this action unless plaintiff is “under imminent
3 danger of serious physical injury.” 28 U.S.C. § 1915(g). Plaintiff has not alleged any facts which
4 suggest that he is under imminent danger of serious physical injury.¹ Thus, plaintiff must submit
5 the appropriate filing fee in order to proceed with this action.

6 In accordance with the above, IT IS HEREBY ORDERED that plaintiff shall submit,
7 within twenty-one days from the date of this order, the appropriate filing fee. Plaintiff’s failure to
8 comply with this order will result in a recommendation that this action be dismissed.

9 Dated: November 12, 2014

10 
11 _____
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

12 /barg2525.1915g

13
14
15
16
17
18
19
20
21
22
23

¹ Rather, plaintiff claims he is not being provided photocopies, and recounts claims concerning a
24 November 27, 2013 attack by his cellmate, which plaintiff has raised in numerous prior actions,
25 see Barger v. CDCR, 2:14-cv-2311 DAD (inmate Scott Graham cut plaintiff’s throat); Barger v.
26 Director of OPS, 2:14-cv-2347 DAD (attacked by cellmate 11/27/13); and Barger v. Roukley,
2:14-cv-2417 DAD (warden was aware of attack by cellmate). Plaintiff is advised that he must
bring all claims related to the November 27, 2013 incident in one civil rights action.

27 Plaintiff also claims that prison officials will not give him his “state allowed weekly indigent
28 paper or envelopes or even a pen filler.” (ECF No. 1 at 10.) However, plaintiff has filed 32
actions in the Eastern District in the year 2014.