

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY DALE BARGER,

No. 2:15-cv-0086 CKD P

Plaintiff,

ORDER

CDCR,

Defendant.

Plaintiff Gary Dale Barger, also known as Gary Francis Fisher, is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Plaintiff has consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636.

On March 13, 2015, plaintiff filed an incomplete motion to proceed in forma pauperis. He asserts that prison officials will not provide him with a certified trust account statement. (ECF No. 14.)

In any case, review of court records reveals that on at least three prior occasions lawsuits filed by 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 dated December 20, 2013, in 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

1 DLB (E.D. Cal.) (failure to state a claim); and July 26, 2013, in Fisher v. FBI, 1:13-cv-0414 LJO
2 SAB (E.D. Cal.) (adopting June 17, 2013 findings that deficiencies in plaintiff's amended
3 complaint cannot be cured by the allegation of other facts). Accordingly, plaintiff is precluded
4 from proceeding in forma pauperis in this action unless plaintiff is "under imminent danger of
5 serious physical injury." 28 U.S.C. § 1915(g). Plaintiff has not alleged any facts in his complaint
6 which suggest that he is under imminent danger of serious physical injury. Thus, plaintiff must
7 submit the appropriate filing fee in order to proceed with this action.

8 In accordance with the above, IT IS HEREBY ORDERED that:

9 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 14) is denied;
10 2. All other outstanding motions (ECF Nos. 3 & 8) are denied; and
11 3. Within fourteen days, plaintiff shall submit the \$400 filing fee for this action.

12 Plaintiff's failure to comply with this order will result in dismissal of this action.

13 Dated: March 23, 2015


14 CAROLYN K. DELANEY
15 UNITED STATES MAGISTRATE JUDGE

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