

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

DONOVAN L. HALEY,  
Plaintiff,  
v.  
JOE A. LIZARRAGA, et al.,  
Defendants.

No. 2:15-cv-0466 AC P

ORDER

Plaintiff, a former state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. This action is referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302(c).

Although plaintiff commenced this action while incarcerated at California State Prison Corcoran, review of the Inmate Locator website operated by the California Department of Corrections and Rehabilitation (CDCR) indicates that plaintiff is no longer incarcerated under the authority of CDCR.<sup>1</sup> Nevertheless, if plaintiff provides a change of address and appropriately responds to this order, this action may proceed.

On March 10, 2015, plaintiff was directed to submit a new application to proceed in forma

---

<sup>1</sup> See <http://inmatelocator.cdcr.ca.gov/search.aspx>. See also Fed. R. Evid. 201 (court may take judicial notice of facts that are capable of accurate determination by sources whose accuracy cannot reasonably be questioned).

1 pauperis on the form used by this district, including completion of the “Certificate” portion of the  
2 application by an authorized prison official, and attachment of a certified copy of plaintiff’s  
3 prison trust account statement for the six-month period immediately preceding the filing of his  
4 complaint. See ECF No. 4. In response, plaintiff filed an uncertified application, and failed to  
5 provide a certified copy of his prison trust account statement. See ECF No. 5. Plaintiff filed a  
6 declaration in which he stated that, “I have repeatedly asked prison officials to supply the  
7 certification and the trust statement, however, they have refused.” ECF No. 5-1 at 2.

8 Plaintiff has submitted similar declarations in other cases that he has filed in this court.  
9 Recently, in Haley v. Davis et al., Case No. 2:15-cv-0091 DAD P, the court noted “[p]laintiff’s  
10 record of failing to submit complete IFP applications[.]” Id., ECF No. 15 at 2. The court  
11 explained, id. at 1-2:

12 A review of this court’s records shows that this case is one of at  
13 least ten civil rights actions plaintiff has filed in this district since  
14 2012. The court dismissed three of those cases due to plaintiff’s  
15 failure to submit a complete application to proceed in forma  
16 pauperis. See Haley v. Raugh, No. 1:13-cv-2082 LJO JLT; Haley  
17 v. Beebe, No. 1:14-cv-0017 LJO GSA; Haley v. Collum, No. 1:14-  
cv-0233 LJO GSA. In the action filed most recently after this case,  
plaintiff claimed, once again, that prison officials have refused to  
sign the certificate required to complete his IFP application. See  
Haley v. Lizarraga, No. 2:15-cv0466 AC (ECF No. 5-1 at 2)  
[instant case].<sup>2</sup>

18 In the instant case, plaintiff will be accorded one final opportunity to submit a completed  
19 in forma pauperis application, or pay the required filing fee of \$350.00 plus the \$50.00  
20 administrative fee.

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

- 22 1. Plaintiff’s second motion to proceed in forma pauperis, ECF No. 5, is denied without  
23 prejudice.
- 24 2. Plaintiff shall, within thirty days after the filing date of this order, submit either a  
25 properly completed application to proceed in forma pauperis on the form provided with this order,


26 \_\_\_\_\_  
27 <sup>2</sup> [Original Fn.1 in quoted passage.] Other judges of this court have dismissed two other actions  
28 filed by plaintiff with instructions that each be recorded as a “strike” under 28 U.S.C. § 1915(g).  
See Haley v. California Dept. of Corrections and Rehabilitation, et al., No. 1:13-cv-0226 AWI  
GSA; Haley v. Lackner, et al., No. 1:13-cv-1403 LJO GSA.

1 or \$400 (the \$350.00 filing fee plus the \$50.00 administrative fee).

2 3. Failure to comply with this order will result in a recommendation that this action be  
3 dismissed without prejudice.

4 4. The Clerk of Court is directed to send plaintiff, together with a copy of this order, a  
5 blank Application to Proceed In Forma Pauperis By a Prisoner for use in a civil rights action.

6 DATED: September 30, 2015

7   
8 ALLISON CLAIRE  
9 UNITED STATES MAGISTRATE JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28