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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SONNY BARGER II, aka Gary Francis
Fisher,

Plaintiff,

v.

CDCR, et al.,

Defendants.

No. 2:16-cv-0182 CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not, however, filed an in forma pauperis affidavit or paid the required filing fee of \$350.00 plus the \$50.00 administrative fee. See 28 U.S.C. §§ 1914(a), 1915(a).

28 U.S.C. § 1915 permits any court of the United States to authorize the commencement and prosecution of any suit without prepayment of fees by a person who submits an affidavit indicating that the person is unable to pay such fees. However,

[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section 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

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physical injury.

28 U.S.C. § 1915(g).

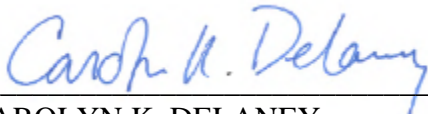
Court records indicate that plaintiff has been deemed a “Three Strikes” inmate under 28 U.S.C. § 1915(g). See Barger v. Hirsch, et al., No. 2:15-cv-0224 GEB DAD P, ECF No. 10 (“[P]laintiff has been denied in forma pauperis status due to his three-strikes designation in at least five prior cases filed in this court.”) The court takes judicial notice of the cases identified therein as § 1915(g) strikes against plaintiff. Id., n.3.

The imminent danger applies only if it is clear that the danger existed when the complaint was filed. Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007). Allegations of imminent danger that are overly speculative or fanciful may be rejected. Id. at 1057, n.11. Having reviewed the complaint, the undersigned finds that plaintiff has not credibly alleged “imminent danger of serious physical injury” under § 1915(g).

In light of the above, plaintiff will be granted fourteen days to pay the filing fee in this action; otherwise, it will be dismissed.

IT IS HEREBY ORDERED that plaintiff shall pay the \$400 filing fee no later than fourteen days from the date of this order. Failure to comply with this order will result in dismissal of this action.

Dated: February 2, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE