

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

JOSH THOMAS,  
Plaintiff,  
v.  
BRIAN ROBERTS, et al.,  
Defendants.

No. 2:16-cv-0724 CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with a civil action. 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 State Magistrate Judge. See 28 U.S.C. § 636(c).

Plaintiff has requested leave to proceed in forma pauperis. Title 28 U.S.C. § 1915(g) reads as follows:

In no event shall a prisoner bring a civil action . . . [in forma pauperis] 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 physical injury.

A review of court records from this court reveals that, while incarcerated, and before this action was filed, plaintiff had three actions dismissed specifically for failure to state a claim upon

1 which relief can be granted: 1:99-cv-5350 AWI LJO P; 1:04-cv-5793 MJS P; and 1:15-cv-0527  
2 LJO DLB P. There is no allegation by plaintiff in his complaint that he is under imminent danger  
3 of serious physical injury.

4 In light of the foregoing, plaintiff's request for leave to proceed in forma pauperis will be  
5 denied. Plaintiff will be granted fourteen days within which to pay the filing fee for this action.  
6 Failure to pay the filing fee within fourteen days will result in dismissal.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 6) is denied.
- 9 2. Plaintiff is granted fourteen days within which to pay the \$400 filing fee for this action.  
10 Failure to pay the filing fee within fourteen days will result in dismissal.

11 Dated: May 16, 2016

  
\_\_\_\_\_  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

12  
13  
14  
15  
16 1  
17 thom0724.3ks  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28