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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLOS HENDON,
Plaintiff,
v.
LISA CARILLO,
Defendants.

No. 2:17-cv-0170 CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983 along with an application to proceed in forma pauperis. 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 physical injury.

28 U.S.C. § 1915(g).

1 Court records indicate that plaintiff has been deemed a “Three Strikes” inmate under 28
2 U.S.C. § 1915(g). See Hendon v. Kulka, No. 2:14-cv-2581 AC P (order identifying plaintiff as
3 three-strikes litigant on August 3, 2015).¹ The court takes judicial notice of the three cases
4 identified therein as § 1915(g) strikes, all of which were dismissed for failure to state a claim. All
5 were dismissed well prior to the filing of the instant action and constitute strikes under § 1915(g).

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

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

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s motion to proceed in forma pauperis is denied; and
- 15 2. Plaintiff shall pay the \$400 filing fee no later than fourteen days from the date of this
16 order. Failure to comply with this order will result in dismissal of this action.

17 Dated: February 28, 2017

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19 _____
20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE

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27 ¹ See also Hendon v. Baroya, No. 1:09-cv-0911 MJS P (E.D. Cal.) (order denying leave to
28 proceed in forma pauperis filed on July 29, 2010); Hendon v. Kulka, No. 2:14-cv-1171 KJN P
(E.D. Cal.) (order denying leave to proceed in forma pauperis on June 9, 2014).