

1 28 U.S.C. § 1915(g). Court records reflect that on at least three prior occasions, plaintiff has
2 brought actions while incarcerated that were dismissed as frivolous, malicious, or for failure to
3 state a claim upon which relief may be granted. *See* (1) *LeBlanc v. Asuncion*, No. 2:16-cv-04280-
4 JLS-AFM (C.D. Cal. June 24, 2016) (dismissing action as frivolous); (2) *LeBlanc v. Asuncion*,
5 No. 2:16-cv-04725-JLS-AFM (C.D. Cal. July 8, 2016) (dismissing action for failure to state a
6 claim); (3) *LeBlanc v. Asuncion*, No. 2:16-cv-07434-JLS-AFM (C.D. Cal. Oct. 12, 2016)
7 (dismissing action for failure to state a claim; and (4) *LeBlanc v. Asuncion*, No. 2:16-cv-7522-
8 JLS-AFM (C.D. Cal. Dec. 12, 2016) (dismissing action for failure to state a claim and designating
9 plaintiff a three-strikes litigant).

10 The section 1915(g) exception applies if the complaint makes a plausible allegation that
11 the prisoner faced “imminent danger of serious physical injury” at the time of filing. 28 U.S.C.
12 § 1915(g); *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007). For the exception to
13 apply, the court must look to the conditions the “prisoner faced at the time the complaint was
14 filed, not at some earlier or later time.” *Andrews*, 493 F.3d at 1053, 1056 (requiring that prisoner
15 allege “an ongoing danger” to satisfy the imminency requirement).

16 In his January 26, 2017 complaint, plaintiff alleges the following: (1) he was on suicide
17 watch and medicated against his will in August 2016; (2) he was denied adequate mental health
18 treatment in July and August 2016; (3) he was retaliated against in August 2016 for filing inmate
19 grievances; and (4) a policy prevents him from having “writing utensils” in his cell, which limits
20 his ability to file appeals, write letters, and do legal work. ECF No. 1. These allegations fail to
21 demonstrate that plaintiff faced an imminent danger of serious physical injury at the time he filed
22 the complaint. Thus, the imminent danger exception does not apply. Plaintiff’s application for
23 leave to proceed in forma pauperis must therefore be denied pursuant to § 1915(g). Plaintiff must
24 submit the appropriate filing fee in order to proceed with this action.

25 Accordingly, because plaintiff has not paid the filing fee and cannot proceed in forma
26 pauperis, it is hereby ORDERED that:

- 27 1. Plaintiff’s application to proceed in forma pauperis (ECF No. 2) is denied; and

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2. Plaintiff shall submit, within twenty-one days from the date of this order, the appropriate filing fee. Plaintiff's failure to comply with this order will result in an order of dismissal.

Dated: April 27, 2017.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE