1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ALONZO JAMES JOSEPH, No. 2:17-cv-01193 AC P 12 Plaintiff. 13 v. **ORDER** 14 V. NOGUCHI, 15 Defendant. 16 17 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Plaintiff has requested leave to proceed in forma pauperis. ECF No. 2. Under 18 19 Title 28 U.S.C. § 1915(g): 20 In no event shall a prisoner bring a civil action . . . [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while 21 incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds 22 that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger 23 of serious physical injury. 24 Court records indicate that plaintiff has previously had three cases dismissed at the 25 screening stage for failure to state a claim. They are: (1) <u>Joseph v. California Prison Industry</u> 26 Authority et al., Case No. 2:13-cv-00122 CKD, 2013 U.S. Dist. LEXIS 78588 (E.D. Cal. June 4, 27 2013); (2) Joseph v. Smith, Case No. 2:12-cv-01935 CMK, 2016 U.S. Dist. LEXIS 23324 (E.D. 28 Cal. Feb. 25, 2016); and (3) Joseph v. Heatley, et al., Case No. 2:13-cv-00879 CMK, 2016 U.S. 1

1 Dist. LEXIS 129994 (E.D. Cal. Sep. 22, 2016). 2 Plaintiff would still be entitled to proceed in forma pauperis if his complaint indicated that 3 he was in imminent danger of serious physical injury. 28 U.S.C. § 1915(g); Andrews v. Cervantes, 493 F.3d 1047, 1049-1050 (9th Cir. 2007). His allegations do not indicate such 4 5 danger, however. Instead, he claims that: (1) the defendant falsely accused him of a sex act; (2) 6 this false accusation resulted in his "shame, humiliation, and belittlement"; and (3) he was 7 denied due process rights with respect to his "CDCR 115 reports." ECF No. 1 at 3-5. 8 In light of the foregoing, plaintiff's request to proceed in forma pauperis will be denied. 9 Plaintiff will be granted thirty days to pay the filing fee for this action. If he fails to do so, this 10 action may be dismissed. 11 Accordingly, it is ORDERED that: 12 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is denied; 13 2. Plaintiff is granted thirty days within which to pay the \$400 filing fee for this action. 14 Failure to pay the filing fee within thirty days will result in a recommendation that this action be 15 dismissed. 16 DATED: June 12, 2017 auson Clane 17 18 UNITED STATES MAGISTRATE JUDGE 19 20 21 22 23 24 25 26 ¹ Plaintiff does allege that he was almost "assaulted or killed" as a result of defendant's

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accusation. ECF No. 1 at 4. He provides no detail as to the nature of this assault, nor does he offer any specific allegation that he is in danger of being assaulted in the future. These claims are insufficient to give rise to an inference that plaintiff is in imminent physical danger.