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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   JOSE MANUEL ESPARZA,   No. 2:18-cv-00154 KJM CKD (PS)

12   Plaintiff,

13   v.   ORDER

14   SONNY PERDUE, et al.,

15   Defendants.

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17   Plaintiff is proceeding pro se. Plaintiff has filed an in forma pauperis affidavit in which he

18   states that his monthly take-home pay is $4,019.19. The district judge assigned to this action

19   referred plaintiff's application to proceed in forma pauperis to the undersigned.

20   Pursuant to federal statute, a filing fee of $350.00 is required to commence a civil action

21   in federal district court. 28 U.S.C. § 1914(a). In addition, a $50.00 general administrative fee for

22   civil cases must be paid. 28 U.S.C. § 1914(b). The court may authorize the commencement of an

23   action "without prepayment of fees and costs or security therefor, by a person who makes

24   affidavit that he is unable to pay such costs or give security therefor." 28 U.S.C. § 1915(a).

25   In his application, plaintiff lists one adult son dependent on him for support. His annual

26   take-home income is roughly $48,000. According to the 2017 federal poverty guidelines issued

27   by the U.S. Department of Health and Human Services (HHS), a family of two with a yearly

28   income of $48,000 is at nearly 300% of the poverty rate. Plaintiff's income shows that plaintiff is

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able to pay the filing fee and costs. Thus, plaintiff has made an inadequate showing of indigence. See Alexander v. Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993); California Men's Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991); Stehouwer v. Hennessey, 841 F. Supp. 316, (N.D. Cal. 1994).

Accordingly, IT IS HEREBY ORDERED that plaintiff is granted fourteen days in which to submit the appropriate fees to the Clerk of the Court. Plaintiff is cautioned that failure to pay the filing and general administrative fees in the amount of $400 will result in a recommendation that the application to proceed in forma pauperis be denied and the instant action be dismissed without prejudice.

Dated: February 22, 2018

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CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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