

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

MICHAEL L. OVERTON,  
Plaintiff,  
v.  
U.S. POSTMASTER GENERAL, et al.,  
Defendants.

No. 2:18-cv-0266-EFB P

ORDER

Plaintiff is a state prisoner confined in Atascadero State Hospital proceeding without counsel in an action brought under 42 U.S.C. § 1983. Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b).

The court cannot conduct the required screening of plaintiff’s complaint because plaintiff has not signed it. *See* ECF No. 1. Rule 11 of the Federal Rules of Civil Procedure requires that “[e]very pleading, written motion, and other paper . . . be signed by at least one attorney of record in the attorney’s name—or by a party personally if the party is unrepresented.” Fed. R. Civ. P. 11(a). Because plaintiff did not sign the complaint (ECF No. 1), it will be disregarded.

1 In addition, plaintiff must pay the \$400 filing fee required by 28 U.S.C. § 1914(a) or  
2 request leave to proceed in forma pauperis and submit the affidavit and trust account statement  
3 required by 28 U.S.C. § 1915(a).

4 Until plaintiff submits a signed complaint and either pays the filing fee or meets the  
5 requirements of 28 U.S.C. § 1915(a), there is simply no case before the court. *See* Fed. R. Civ. P.  
6 3 (“A civil action is commenced by filing a complaint with the court.”).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Clerk of the Court shall strike the unsigned complaint (ECF No. 1) from the  
9 docket.
- 10 2. Within 30 days of the date of this order, plaintiff shall file a signed complaint.
- 11 3. Within 30 days of the date of this order, plaintiff shall either pay the \$400 filing fee or  
12 submit a complete application for leave to proceed in forma pauperis using the form  
13 provided.
- 14 4. Plaintiff’s failure to comply with this order may result in this case being closed.
- 15 5. The Clerk of the Court is directed to send plaintiff the court’s form prisoner civil  
16 rights complaint and application for leave to proceed in forma pauperis.

17 Dated: February 13, 2018.

18   
19 EDMUND F. BRENNAN  
20 UNITED STATES MAGISTRATE JUDGE  
21  
22  
23  
24  
25  
26  
27  
28