

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VICTOR DWAYNE HOLMES,)	No. C 08-3423 MMC (PR)
Plaintiff,)	ORDER OF DISMISSAL; DENYING LEAVE TO PROCEED IN FORMA PAUPERIS
v.)	
SAN QUENTIN STATE PRISON,)	
Defendant.)	(Docket No. 2)

On July 16, 2008, plaintiff, a California prisoner incarcerated at San Quentin State Prison and proceeding pro se, filed the above-titled civil rights action pursuant to 42 U.S.C. § 1983. Together with his complaint, plaintiff filed an incomplete application to proceed in forma pauperis (“IFP”). That same date, the Court notified plaintiff in writing that the action was deficient due to plaintiff’s failure to pay the requisite filing fee or, instead, to submit a completed court-approved IFP application. Specifically, in said notice, plaintiff was advised that he must submit a Certificate of Funds in Prisoner’s Account completed and signed by an authorized officer at the prison, and must attach a copy of his prisoner trust account statement showing transactions for the last six months. Plaintiff was further advised that his failure to pay the filing fee or, alternatively, to file a completed IFP application, within thirty days, would result in dismissal of the action. Along with said notice, plaintiff was sent a copy of the court-approved prisoner’s IFP application, instructions for completing it, and a return envelope.

On August 5, 2008, shortly before the thirty-day deadline for plaintiff to comply

United States District Court
For the Northern District of California

1 with the court's filing-fee requirements, plaintiff filed a copy of his prisoner trust
2 account statement showing deposits made to the account from "Inmate Payroll" during
3 the months of January through October 2007, and a check deposit made to the account in
4 June 2008. Plaintiff also attached a copy of his prisoner trust account statement showing
5 the amount of restitution owed by plaintiff between February 2005 and June of 2008.
6 Plaintiff did not, however, file a copy of his prisoner trust account statement showing
7 transactions, including the balance of funds, in his account for the last six months, or a
8 Certificate of Funds in Prisoner's Account completed and signed by an authorized
9 officer at the prison.

10 As more than thirty days have passed since the deficiency notice was sent to
11 plaintiff and he has not filed a completed IFP application or paid the filing fee, the
12 above-titled action is hereby DISMISSED without prejudice. Additionally, the
13 incomplete application to proceed in forma pauperis is hereby DENIED and no fee is
14 due.

15 This order terminates Docket No. 2.

16 The Clerk shall close the file.

17 IT IS SO ORDERED.

18 DATED: October 21, 2008

19 
20 MAXINE M. CHESNEY
21 United States District Judge