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United States District Court
For the Northern District of California

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICKEY LOUIS ALFORD,)	No. C 09-03309 JF (PR)
)	
Plaintiff,)	ORDER DIRECTING PLAINTIFF
)	TO FILE NOTICE OF INTENT TO
vs.)	PROSECUTE; DIRECTING
)	PLAINTIFF TO PAY FILING FEE
)	OR <i>IN FORMA PAUPERIS</i>
M. PARKER, et al.,)	APPLICATION
)	
Defendants.)	

On July 20, 2009, Plaintiff, a state prisoner, filed the instant civil rights action pursuant to 42 U.S.C. § 1983. On the same day, the clerk of the Court sent a notification to Plaintiff that his complaint was deficient because Plaintiff did not pay the filing fee or file In Forma Pauperis Application. (Docket No. 2.) The notification included the warning that the case would be dismissed if Plaintiff failed to respond within thirty days. On August 7, 2009, the Court’s mail to Plaintiff was returned with the remark “Inmate Refused.” (Docket No. 3.) As of the date of this order, Plaintiff has not communicated with the Court or submitted any further pleadings in this case.

Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua

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sponte dismiss an action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal should only be ordered when the failure to comply is unreasonable. See id. A court should afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv., 833 F.2d 128, 133 (9th Cir. 1987).

It is Plaintiff's responsibility to prosecute this action. The Court cannot proceed with this action until Plaintiff informs the Court of his continued intent to prosecute this action. Accordingly, **no later than thirty (30) days** from the date this order is filed, Plaintiff shall file with the Court a notice of his continued intent to prosecute. **Failure to do so will result in the dismissal of this action without prejudice for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure, and without further notice to Plaintiff.** See Malone, 833 F.2d at 133 (the district court should afford the litigant prior notice before dismissing for failure to prosecute).

Plaintiff shall also pay the filing fee or file a completed in forma pauperis application **no later than thirty (30) days** from the date this order is filed. **Failure to do so will result in the dismissal of this action for failure to pay the filing fee.**

IT IS SO ORDERED.

DATED: 11/23/09



JEREMY FOGEL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RICKEY L. ALFORD,
Plaintiff,

Case Number: CV09-03309 JF

CERTIFICATE OF SERVICE

v.

M. PARKER, et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 11/30/09, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Rickey Louis Alford J39242
CA State Prison-Los Angeles County
PO Box 4670
Lancaster, CA 93539

Dated: 11/30/09

Richard W. Wieking, Clerk