

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

CALIFORNIA COURT OF APPEAL,

Defendant.

Case No. [18-cv-01008-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Plaintiff Steven Wayne Bonilla, a state inmate, has filed an appeal of the California Court of Appeal's denial of his recent habeas petition. The clerk has designated this case as a civil rights action under 42 U.S.C. § 1983. Most likely, this case should have been designated as a habeas petition. However, under either designation, it is dismissed. As a civil rights plaintiff, Bonilla has been disqualified from proceeding in forma pauperis ("IFP") under 28 U.S.C. § 1915(g) unless he is "under imminent danger of serious physical injury" at the time he filed his complaint. 28 U.S.C. § 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR). The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, Bonilla may not proceed IFP. Moreover, a civil rights complaint is barred under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

As a habeas petition, it is dismissed because Bonilla has a pending habeas action where he is represented by counsel, see *Bonilla v. Ayers*, No. C 08-0471 YGR. He must bring all of his habeas claims in that case.

Accordingly, this case is dismissed with prejudice.

Furthermore, this is not a case in which the undersigned judge's impartiality might be reasonably questioned. See *United States v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008) (absent legitimate reason to recuse himself or herself, judge has a duty to sit in judgment in all cases assigned to that judge).

The Clerk shall close the case. The Clerk shall return, without filing, any further documents Bonilla submits after this case is closed.

IT IS SO ORDERED.

Dated: April 9, 2018



VINCE CHHABRIA
United States District Judge