

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 CURTIS L. MARTIN,

No. C 08-04297 CW (PR)

5 Plaintiff,

ORDER REGARDING IN FORMA
PAUPERIS MOTION

6 v.

7 JOHN DOE, et al.,

8 Defendants.
9 _____/

10 Plaintiff, a state prisoner, filed this pro se civil rights
11 action under 42 U.S.C. § 1983. On that same date, the Clerk of the
12 Court sent Plaintiff a notice directing him to pay the filing fee
13 or to file a completed in forma pauperis (IFP) application.
14 Plaintiff filed a completed IFP application and a copy of his
15 prisoner trust account statement; however, Plaintiff did not file a
16 copy of his Certificate of Funds.

17 Ordinarily, a plaintiff is permitted to file a civil action in
18 federal court without prepayment of fees or security if he submits
19 an affidavit that he is unable to pay such fees or give security
20 therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner
21 who alleges that he is unable to pay the full filing fee at the
22 time of filing, he must submit: (1) an affidavit that includes a
23 statement of all assets he possesses, and (2) a certified copy of
24 the trust fund account statement for the prisoner for the six-month
25 period immediately preceding the filing of the action, obtained
26 from the appropriate official of each prison at which the prisoner
27 is or was confined. See id. § 1915(a)(1), (2). If the court
28 determines that the plaintiff is unable to pay the full filing fee

1 at the time of filing, the plaintiff will be granted leave to
2 proceed IFP. This means that the filing fee must be paid by way of
3 an installment plan, according to which the court first will assess
4 and collect a partial filing fee from the prisoner, and then the
5 prisoner will be required to make monthly payments of twenty
6 percent of the preceding month's income credited to the prisoner's
7 account until the full \$350.00 filing fee is paid. Id.
8 § 1915(b)(1). The agency having custody of the prisoner is
9 responsible for forwarding to the court payments from the
10 prisoner's account each time the amount in the account exceeds ten
11 dollars. See id. Therefore, before the Court will proceed to
12 review the complaint Plaintiff is hereby ORDERED to file a copy of
13 his Certificate of Funds. Plaintiff shall do so within thirty (30)
14 days of the date of this Order.

15 Failure to file a copy of Plaintiff's Certificate of Funds as
16 ordered herein by the thirty-day deadline shall result in the
17 dismissal of this action without prejudice.

18 IT IS SO ORDERED.



19 Dated: 11/13/08

20 _____
21 CLAUDIA WILKEN
22 UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 IN RE: CURTIS L MARTIN,

Case Number: CV08-04297 CW

5 Plaintiff,

CERTIFICATE OF SERVICE

6 v.

7 DOES

8 Defendant.
_____ /

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

11 That on November 13, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Curtis L. Martin V-36244
16 3C 139L
17 Pleasant Valley State Prison
18 P.O. Box 8503
19 Coalinga, CA 93210

20 Dated: November 13, 2008

21 Richard W. Wiekling, Clerk
22 By: Sheilah Cahill, Deputy Clerk
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25
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