

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

MICHAEL D. PIERCE,

No. C 08-04446 SBA (PR)

Plaintiff,

**ORDER REGARDING IN FORMA  
PAUPERIS MOTION**

v.

DIRECTOR OF CORRECTIONS AND  
REHABILITATIONS, et al.,

Defendants.

---

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

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

1 determines that the plaintiff is unable to pay the full filing fee at the time of filing, the plaintiff will  
2 be granted leave to proceed IFP. This means that the filing fee must be paid by way of an  
3 installment plan, according to which the court first will assess and collect a partial filing fee from the  
4 prisoner, and then the prisoner will be required to make monthly payments of twenty percent of the  
5 preceding month's income credited to Plaintiff's account until the full \$350.00 filing fee is paid. Id.  
6 § 1915(b)(1). The agency having custody of the prisoner is responsible for forwarding to the court  
7 payments from Plaintiff's account each time the amount in the account exceeds ten dollars. See id.

8 Therefore, before the Court will proceed to review the complaint Plaintiff is hereby  
9 ORDERED to file a copy of his Certificate of Funds. Plaintiff shall do so within **thirty (30) days** of  
10 the date of this Order.

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

13 IT IS SO ORDERED.

14 DATED: 10/27/08

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

4 MICHAEL D. PIERCE,  
5 Plaintiff,

Case Number: CV08-04446 SBA

**CERTIFICATE OF SERVICE**

6 v.

7 DIRECTOR OF CORRECTIONS et al,  
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 October 28, 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  
14 located in the Clerk's office.

15 Michael D. Pierce  
16 CDCR #P-31729  
17 CDCR - Corcoran  
18 P.O. Box 5242  
19 Corcoran, CA 93212

20 Dated: October 28, 2008

21 Richard W. Wieking, Clerk  
22 By: LISA R CLARK, Deputy Clerk  
23  
24  
25  
26  
27  
28