

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

3  
4 ANTHONY E. JOHNSON,  
5                                    Plaintiff,

No. C 08-05405 CW (PR)

ORDER REGARDING IN FORMA  
PAUPERIS MOTION

6                                    v.

7 BILL LOCKYER,  
8                                    Defendant.

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: 2/10/09



20 CLAUDIA WILKEN  
21 UNITED STATES DISTRICT JUDGE

22  
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26  
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28

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

4 ANTHONY E. JOHNSON,

5 Plaintiff,

6 v.

7 BILL LOCKYER et al,

8 Defendant.

Case Number: CV08-05405 CW

**CERTIFICATE OF SERVICE**

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 February 10, 2009, 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 Anthony E. Johnson K-00750  
16 FA-5-118L  
17 CSP-Sacramento  
18 P.O. Box 290066  
19 Represa, CA 95671-0066

20 Dated: February 10, 2009

21 Richard W. Wiekling, Clerk  
22 By: Sheilah Cahill, Deputy Clerk  
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26  
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