

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

3
4 PAUL SAMUEL JOHNSON,
5 Plaintiff,

6 v.

7 THE CITY OF SANTA ROSA, et al.,
8 Defendants.

Case No.: 12-01409 CW (PR)

ORDER VACATING ORDER GRANTING
LEAVE TO PROCEED IN FORMA
PAUPERIS AND DIRECTING
PLAINTIFF TO FILE COMPLETED
NON-PRISONER IN FORMA PAUPERIS
APPLICATION

(Docket no. 11)

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11 Plaintiff filed the present pro se civil rights action and
12 application seeking leave to proceed in forma pauperis (IFP) when
13 he was incarcerated at the California State Prison - Solano. On
14 November 29, 2012, the Court dismissed the complaint with leave to
15 amend and granted Plaintiff leave to proceed IFP. Docket nos. 11
16 & 12.

17 In so doing, the Court did not take into account the fact
18 that Plaintiff no longer is incarcerated. Ordinarily, a plaintiff
19 is permitted to file a civil action in federal court without
20 prepayment of fees or security if he alleges in an affidavit that
21 he is unable to pay such fees or give security therefor. See 28
22 U.S.C. § 1915(a). But, if the plaintiff is a prisoner who alleges
23 that he is unable to pay the full filing fee at the time of
24 filing, he will be required to pay the full amount of the filing
25 fee even if he is granted IFP status. See 28 U.S.C. § 1915(b)(1).
26 This is done by way of an "installment plan," whereby the court
27 will assess an initial payment, and the prisoner will be required
28

1 thereafter to make monthly payments of twenty percent of the
2 preceding month's income credited to his prison trust account.

3 See id.

4 If a prisoner is released, however, the court will be unable
5 to collect the funds from his prisoner trust account as required
6 under 28 U.S.C. § 1915(b). Consequently, because Plaintiff has
7 been released from custody, he now must apply to proceed IFP under
8 the general provisions of 28 U.S.C. § 1915(a)(1).

9 Accordingly, the Court orders as follows: The order granting
10 Plaintiff leave to proceed IFP is hereby VACATED. No later than
11 fourteen days from the date of this Order, Plaintiff either shall
12 (1) pay the \$350.00 filing fee in this action, or (2) file a
13 completed non-prisoner IFP application. If Plaintiff fails to
14 comply with this Order, the case will be dismissed without
15 prejudice.

16 The Clerk of the Court shall provide Plaintiff with a non-
17 prisoner IFP application.

18 It is Plaintiff's responsibility to prosecute this case. He
19 must keep the Court informed of any change of address and must
20 comply with the Court's orders in a timely fashion. Failure to do
21 so may result in the dismissal of this action for failure to
22 prosecute pursuant to Rule 41(b) of the Federal Rules of Civil
23 Procedure.

24 IT IS SO ORDERED.

25 Dated: 12/3/2012

26 

27 CLAUDIA WILKEN
28 UNITED STATES DISTRICT JUDGE