

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

STEVEN WAYNE BONILLA, No. C 12-2852 CW (PR)
Plaintiff,
v.
KATHY BONILLA,
Defendant.

STEVEN WAYNE BONILLA, DBA No. C 12-2863 CW (PR)
SUNSTATE WHOLESALE TROPICAL
NURSERY, Plaintiff,
v.
PACIFIC GROWERS, et al., ORDER DENYING LEAVE TO
Defendants. PROCEED IN FORMA
PAUPERIS; DISMISSING
PENDING MOTIONS

Plaintiff, a state prisoner proceeding pro se, seeks leave to proceed in forma pauperis (IFP) in these two civil actions. The Court previously informed Plaintiff that, in accordance with 28 U.S.C. § 1915(g), he no longer qualifies to proceed IFP in any civil action he files in this Court. See In re Steven Bonilla, Nos. C 11-3180, et seq. CW (PR), Order of Dismissal at 6:23-7:19. The sole exception to this restriction is that Plaintiff may proceed IFP if he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). The plain language of the imminent danger clause in § 1915(g) indicates that "imminent danger" is to be assessed at the time of filing of the complaint. See Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).

Here, Plaintiff has not alleged facts that show he was in imminent danger of serious physical injury at the time he filed

1 these complaints. Rather, in Bonilla v. Bonilla, C 12-2852, he
2 complains that his sister has denied him an accounting of the
3 proceeds in the living trust established by his father before he
4 died, and in Bonilla v. Pacific Growers, C 12-2863, he seeks
5 monetary damages from the participants of an alleged civil
6 conspiracy that led to his conviction and incarceration.

7
8 Moreover, the fact that Plaintiff has been sentenced to death
9 does not, at this time, satisfy the imminent danger requirement.
10 Specifically, he is not in imminent danger of execution because
11 this Court has entered a stay of execution in his pending federal
12 habeas corpus action. See Bonilla v. Ayers, No. C 08-0471 CW (PR),
13 Docket no. 3.

14 Accordingly, Plaintiff's request to proceed IFP is DENIED and
15 these actions are hereby DISMISSED.¹

16 The Clerk of the Court shall terminate all pending motions,
17 enter judgment and close the files.

18 IT IS SO ORDERED.

19 DATED: 6/18/2012

20 
21 CLAUDIA WILKEN
22 United States District Judge
23
24
25

26 ¹ Plaintiff is not precluded from bringing his claims in future
27 actions in which he pays the full filing fee of \$350.00. However,
28 even if he does so, such actions will be subject to review by the
Court to determine whether the claims can go forward. 28 U.S.C.
§ 1915A.