

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
34 STEVEN BONILLA AND SUNSTATE
TROPICAL WHOLESALE NURSERY,

5 Plaintiffs,

6 v.

7 FLOY E. DAWSON, et al.,

8 Defendants.

Case No.: 13-00951 CW (PR)

9 STEVEN BONILLA AND SUNSTATE
TROPICAL WHOLESALE NURSERY,

10 Plaintiffs,

11 v.

12 KATHLEEN BONILLA,

13 Defendant.

Case No.: 13-00952 CW (PR)

14 STEVEN BONILLA AND SUNSTATE
TROPICAL WHOLESALE NURSERY,

15 Plaintiffs,

16 v.

17 FRANCIE KOEHLER, et al.,

18 Defendants.

Case No.: 13-00953 CW (PR)

19 STEVEN BONILLA AND SUNSTATE
TROPICAL WHOLESALE NURSERY,

20 Plaintiffs,

21 v.

22 PACIFIC GROWERS, et al.,

23 Defendants.

Case No.: 13-00954 CW (PR)

24 STEVEN BONILLA AND SUNSTATE
TROPICAL WHOLESALE NURSERY,

25 Plaintiffs,

26 v.

27 PACIFIC GROWERS,

28 Defendant.

Case No.: 13-00955 CW (PR)

ORDER OF DISMISSAL AND
TERMINATING PENDING MOTIONS

1 Plaintiff Steven Bonilla is a state prisoner proceeding pro
2 se who seeks leave to proceed in forma pauperis (IFP) in these
3 five civil actions. He brings these actions on behalf of Sunstate
4 Tropical Wholesale Nursery, a company of which he alleges he is
5 the president and owner. In these actions, he attempts to sue
6 various individuals and entities who he maintains are "in default
7 of an opportunity to respond" to a "commercial affidavit" he sent
8 them demanding the payment of debt owed to the company. According
9 to Plaintiff, Defendants' activities are also related to his
10 criminal conviction. Plaintiff previously has attempted to sue
11 these same individuals and entities in federal court on numerous
12 occasions. This Court has dismissed all of those actions for
13 failure to state a claim upon which relief may be granted.

14 On October 25, 2011, the Court informed Plaintiff that, in
15 accordance with 28 U.S.C. § 1915(g), he no longer qualifies to
16 proceed IFP in any civil action he files in this Court. See In re
17 Steven Bonilla, Nos. C 11-3180, et seq. CW (PR), Order of Dismissal
18 at 6:23-7:19. The sole exception to this restriction is that
19 Plaintiff may proceed IFP if he "is under imminent danger of
20 serious physical injury." 28 U.S.C. § 1915(g). The plain
21 language of the imminent danger clause in § 1915(g) indicates that
22 "imminent danger" is to be assessed at the time of filing of the
23 complaint. See Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th
24 Cir. 2007).

25 Here, Plaintiff has not alleged facts that show he was in
26 imminent danger of serious physical injury at the time he filed
27 these complaints. Further, the fact that Plaintiff has been
28 sentenced to death does not, at this time, satisfy the imminent

1 danger requirement. He is not in imminent danger of execution
2 because this Court has entered a stay of execution in his pending
3 federal habeas corpus action. See Bonilla v. Ayers, No. C 08-0471
4 CW (PR), Docket no. 3.

5 Moreover, as the Court has explained to Plaintiff on numerous
6 occasions, to the extent the relief he seeks pertains to his
7 ongoing attempts to invalidate his conviction, such claims, if
8 raised, must be brought by appointed counsel in his pending
9 federal habeas corpus action.

10 Accordingly, for the foregoing reasons, Plaintiff's requests
11 to proceed IFP are DENIED and these actions are hereby DISMISSED.

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

14 The Clerk shall file a copy of this Order in C 08-0471 CW.

15 IT IS SO ORDERED.

16 Dated: 3/11/2013

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18 CLAUDIA WILKEN
19 UNITED STATES DISTRICT JUDGE
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