

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

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JIMMIE LEE JACKSON,
CDCR #C-49500,

R.M. HOUSTON, Assoc. Warden;
Lt. COOK, Sgt. J.C. MARTINEZ;
Sgt. H. MENDEZ; Sgt. RODRIGUES;
Sgt. CLARK; C/O D. BARRETTO;
C/O L. CORDOVA; DOES 1-8,

Defendants.

Civil No. 07-1108 L (POR)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE FOR
FAILING TO PAY FILING FEES
PURSUANT TO 28 U.S.C. § 1914(a)
AND/OR MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

Plaintiff, an inmate currently incarcerated at High Desert State Prison in Susanville, California, and proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983.

I.

Failure to Pay Filing Fee or Request IFP Status

Effective April 9, 2006, all parties instituting any civil action, suit or proceeding in a district court of the United States, other than a writ of habeas corpus, must pay a filing fee of \$350. *See* 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, ___ F.3d ___ (9th Cir. June 26, 2007) (No. 04-17459), slip op. at 7630; *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

1 In this case, Plaintiff has neither prepaid the \$350 filing fee required to commence this
2 action, nor has he submitted a Motion to Proceed IFP. Therefore, this action is subject to
3 immediate dismissal pursuant to 28 U.S.C. § 1914(a). *Id.*

4 **II.**

5 **Conclusion and Order**

6 For the reasons set forth above, the Court hereby:

7 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350
8 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

9 (2) **GRANTS** Plaintiff thirty (30) days leave from the date this Order is stamped
10 “Filed” to: (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion
11 to proceed IFP which includes a certified copy of his trust account statement for the 6-month
12 period preceding the filing of his Complaint pursuant to 28 U.S.C. § 1915(a)(2).

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with the
14 Court’s approved form “Motion and Declaration in Support of Motion to Proceed *In Forma*
15 *Pauperis.*” If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the
16 attached Motion to Proceed IFP within that time, this action shall remain dismissed without
17 prejudice and without further Order of the Court.

18 **IT IS SO ORDERED.**

19 DATED: June 29, 2007

20 
21 M. James Lorenz
22 United States District Court Judge
23
24
25
26
27
28