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

ISIDRO ROMAN,
CDCR #J-41754,

Plaintiffs,

Civil No. 07-1343 BEN (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)**

vs.

DERRAL G. ADAMS, Warden,
CRONES; GIURBINO; ZAMORA,

Defendants.

Plaintiff, an inmate currently incarcerated at California State Prison in Corcoran, California, and proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff claims various prison officials at Calipatria and North Kern State Prisons “assaulted” and “abused” him in violation of the First, Eighth and Fourteenth Amendments in September 1995. (Compl. at 2-4.) Plaintiff seeks general and punitive damages, as well as costs. (*Id.* at 7.)

1 **I. Failure to Pay Filing Fee or Request IFP Status**

2 Effective April 9, 2006, all parties instituting any civil action, suit or proceeding in a
3 district court of the United States, other than a writ of habeas corpus, must pay a filing fee of
4 \$350. See 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if
5 the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a).
6 See *Andrews v. Cervantes*, 2007 WL 1815499 (9th Cir. June 26, 2007), *as amended*, 2007 WL
7 1932824 at *3, ___ F.3d ___ (9th Cir. July 5, 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177
8 (9th Cir. 1999).

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

12 **II. Conclusion and Order**

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

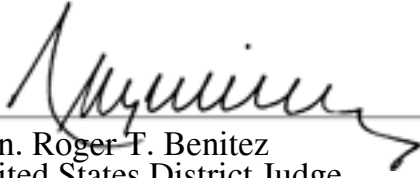
14 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350
15 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

16 (2) **GRANTS** Plaintiff forty-five (45) days leave from the date this Order is stamped
17 "Filed" to: (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion
18 to proceed IFP which includes a certified copy of his trust account statement for the 6-month
19 period preceding the filing of his Complaint pursuant to 28 U.S.C. § 1915(a)(2).

20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with the
21 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*
22 *Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the
23 attached Motion to Proceed IFP within forty-five days, this civil action shall remain dismissed
24 without prejudice and without further Order of the Court.

25 **IT IS SO ORDERED.**

26 DATED: August 6, 2007

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Hon. Roger F. Benitez
United States District Judge