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

JAMES LYNN HINES,  
CDCR #K-86989, ADC #197067,

Plaintiff,

vs.

MAUREEN PELTON, et al.,

Defendants.

Civil No. 08-0496 L (POR)

**ORDER DISMISSING CIVIL  
ACTION FOR FAILING TO PAY  
FILING FEE OR MOVE TO  
PROCEED *IN FORMA PAUPERIS*  
PURSUANT TO 28 U.S.C. § 1915(a)**

Plaintiff, an inmate currently incarcerated at the Arizona State Prison Complex in Florence, Arizona, and proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983.<sup>1</sup>

**I.**

**Failure to Pay Filing Fee or Request IFP Status**

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

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<sup>1</sup> The Court notes that Plaintiff was a California state inmate. Thus, it is unclear whether Plaintiff is currently a California state inmate housed temporarily in Arizona or he is an inmate within the Arizona State correctional system.

1 leave to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v.*  
2 *Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

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

6 **II.**

7 **Conclusion and Order**

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


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

11 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is “Filed”  
12 to: (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion to proceed  
13 IFP which includes a certified copy of his trust account statement for the 6-month period  
14 preceding the filing of his Complaint pursuant to 28 U.S.C. § 1915(a)(2) and S.D. CAL. CIVLR  
15 3.2(b).

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

21 **IT IS SO ORDERED.**

22  
23 DATED: March 27, 2008

24   
25 M. James Lorenz  
26 United States District Court Judge  
27  
28