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

ALAN DEVON,
CDCR #E-43780,

Plaintiff,

vs.

A. HERNANDEZ, W. SUGLIGH;
R. VALDEZ; P. COWAN,

Defendants.

Civil No. 10cv2098 BTM (PCL)

**ORDER DISMISSING CASE FOR
FAILING TO PAY INITIAL FILING
FEE**

Plaintiff, Alan Devon, is a state inmate who is currently incarcerated at the California State Prison in Lancaster, California. Plaintiff filed a civil action pursuant to 42 U.S.C. § 1983, along with a Motion to Proceed *In Forma Pauperis* (“IFP”) [Doc. No. 3]. On October 27, 2010, Plaintiff filed a First Amended Complaint (“FAC”). The Court reviewed Plaintiff’s First Amended Complaint, along with Plaintiff’s Motion to Proceed IFP and determined that Plaintiff was barred from proceeding IFP pursuant to 28 U.S.C. § 1915(g). See Nov. 3, 2010 Order at 3-4.

1 The Court then provided Plaintiff with forty five (45) days in which to pay the entire \$350
2 civil filing fee in full. *Id.* at 4. If Plaintiff failed to pay the filing fee, the Court notified Plaintiff
3 that his action would be dismissed. That time has passed and Plaintiff has not paid the initial
4 civil filing fee. However, on December 7, 2010, the Court accepted for filing a letter from
5 Plaintiff in which he indicates that he does not “know why you haven’t allowed my motion for
6 leave for IFP to be approved on the ADA violations the Institution took me through.” *See* Pl.’s
7 letter dated December 7, 2010 at 1.

8 As the Court stated in the November 3, 2010 Order, Plaintiff has had at least three
9 prisoner civil cases dismissed on the grounds that they were frivolous, malicious, or failed to
10 state a claim upon which relief may be granted. *See* Nov. 3, 2010 Order at 3. Moreover, the
11 Court reviewed Plaintiff’s First Amended Complaint and found that he failed to allege a
12 “plausible allegation” that he faced imminent danger of serious physical injury at the time he
13 filed this action. *Id.* Thus, Plaintiff is simply not entitled to proceed IFP in this matter.

14 Now that the time has passed for Plaintiff to pay the initial civil filing fee and he has
15 informed the Court that he is unable to do so, the Court must dismiss this action.

16 **Conclusion and Order**

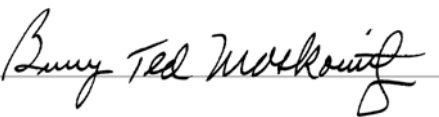
17 For the reasons set forth above, the Court hereby:

18 **DISMISSES** Plaintiff’s action for failing to comply with the Court’s November 3, 2010
19 Order and for failing to pay the initial civil filing fee.

20 The Clerk of Court shall close the file.

21 **IT IS SO ORDERED.**

22 DATED: December 29, 2010

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24 _____
25 Honorable Barry Ted Moskowitz
26 United States District Judge
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