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

THO LE,
Inmate Booking No. 16147-097,

Plaintiff,

vs.

SIX UNKNOWN NAMES AGENTS;
BARACK OBAMA,

Defendants.

Civil No. 13cv2594 LAB (NLS)

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

Plaintiff, currently detained at the Etowah County Jail in Gadsden, Alabama, and proceeding pro se, filed an incomprehensible one-page complaint entitled “Civil Rights Action with the Writ of Summons and Complaint” “under 42 U.S.C. § 1983” (ECF Doc. No. 1) on October 25, 2013.

I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$400. See 28 U.S.C. § 1914(a). An action may proceed despite a party’s failure to pay this filing fee only if the party is granted leave to proceed *in forma pauperis* (“IFP”)

1 pursuant to 28 U.S.C. § 1915(a).¹ *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th
2 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

3 Plaintiff has not prepaid the \$400 in filing and administrative fees required to
4 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28
5 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a);
6 *Andrews*, 493 F.3d at 1051.

7 **II. 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
10 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to
11 28 U.S.C. § 1914(a) and § 1915(a); and

12 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is
13 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*
14 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust
15 account statement for the 6-month period preceding the filing of his Complaint. *See* 28
16 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).²

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21 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1,
22 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a), (b); Judicial
23 Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However,
Id.

24 ² Plaintiff is cautioned that if he chooses to proceed further with this action either by
25 paying the full \$400 in civil and administrative fees required by 28 U.S.C. § 1914(a), or moving
26 to proceed IFP, his Complaint, which is currently comprised of a single page of nonsensical legal
27 jargon seeking “one hundred million[] dollars” in damages against unidentified “agents” and the
28 President of the United States, will be screened and immediately dismissed as frivolous pursuant
to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(b). *See Lopez v. Smith*, 203 F.3d 1122,
1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) “not only permits but
requires” the court to sua sponte dismiss an *in forma pauperis* complaint that fails to state a
claim); *see also Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing sua sponte
screening required by 28 U.S.C. § 1915A(b) of all prisoner complaints).

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IT IS FURTHER ORDERED that the Clerk of the Court shall provide Plaintiff with this Court’s approved form “Motion and Declaration in Support of Motion to Proceed *In Forma Pauperis*.” If Plaintiff fails to either prepay the \$400 civil filing fee or complete and submit the enclosed Motion to Proceed IFP within that time, this action shall remain dismissed without prejudice and without further Order of the Court.

DATED: November 8, 2013



HONORABLE LARRY ALAN BURNS
United States District Judge