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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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

JOSE ALCANTARA,
Inmate Booking No. A034544425,

Plaintiff,

vs.

SIX UNKNOWN NAMES AGENTS;
BARACK OBAMA,

Defendants.

Civil 14cv0914 WQH (DHB)
No.

**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 Detention Center in Gadsden, Alabama, and proceeding pro se, filed a one-page complaint entitled "Civil Rights Action with the Writ of Summons and Complaint" "under 42 U.S.C. § 1983" on April 15, 2014 (ECF Doc. No. 1).

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1 **I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

2 All parties instituting any civil action, suit or proceeding in any district court of
3 the United States, except an application for writ of habeas corpus, must pay a filing fee
4 of \$400. See 28 U.S.C. § 1914(a).¹ An action may proceed despite a party's failure to
5 pay this filing fee only if the party is granted leave to proceed in forma pauperis ("IFP")
6 pursuant to 28 U.S.C. § 1915(a). See Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th
7 Cir. 2007); Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999).

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

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
15 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to
16 28 U.S.C. § 1914(a) and § 1915(a); and

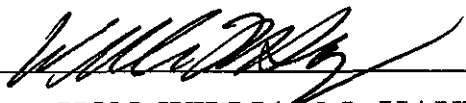
17 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is
18 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*
19 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust
20 account statement for the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

22 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
23 with this Court's approved form "Motion and Declaration in Support of Motion to
24 Proceed In Forma Pauperis." If Plaintiff fails to either prepay the \$400 civil filing fee
25

26 _____
27 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1,
28 2013, must pay an additional administrative fee of \$50. See 28 U.S.C. § 1914(a), (b); Judicial
Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However,
the additional \$50 administrative fee is waived if the plaintiff is granted leave to proceed IFP.
Id.

1 or complete and submit the enclosed Motion to Proceed IFP within that time, this action
2 shall remain dismissed without prejudice and without further Order of the Court.

3 DATED: 4/15/14



HON. WILLIAM Q. HAYES
United States District Judge

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