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

SHAUN JETER,  
Inmate No. 14725460,

Plaintiff,

vs.

NATIONAL CITY POLICE CHIEF;  
JOHN DOES 1-10, Police Officers;  
JOHN DOES 1-5 Medical Personnel;  
JANE DOES 1-10, Medical Personnel,

Defendants.

Civil No. 14cv1730 AJB (JMA)

**ORDER:**

**(1) GRANTING PLAINTIFF'S  
MOTION TO PROCEED IN  
FORMA PAUPERIS  
[Doc. No. 9]**

**AND**

**(2) DIRECTING U.S. MARSHAL  
TO EFFECT SERVICE OF  
FIRST AMENDED COMPLAINT  
PURSUANT TO FED.R.CIV.P.  
4(c)(3) AND 28 U.S.C. § 1915(d)**

Shaun Jeter (“Plaintiff”), who is currently incarcerated at the George Bailey Detention Facility (“GBDF”) in San Diego, California, and proceeding pro se, has filed a civil rights complaint (“Compl.”) pursuant to 42 U.S.C. § 1983 (Doc No. 1). Before the Court could conduct the required screening, Plaintiff filed a First Amended Complaint (“FAC”) which is now the operative pleading. In addition, Plaintiff has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a) (Doc. No. 9).

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1 **I. MOTION TO PROCEED IFP**

2 All parties instituting any civil action, suit or proceeding in a district court of the  
3 United States, except an application for writ of habeas corpus, must pay a filing fee of  
4 \$400. *See* 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a plaintiff’s failure to  
5 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C.  
6 § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, a  
7 prisoner granted leave to proceed IFP remains obligated to pay the entire fee in  
8 installments, regardless of whether his action is ultimately dismissed. *See* 28 U.S.C.  
9 § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

10 Under 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act  
11 (“PLRA”), a prisoner seeking leave to proceed IFP must submit a “certified copy of the  
12 trust fund account statement (or institutional equivalent) for the prisoner for the six-  
13 month period immediately preceding the filing of the complaint.” 28 U.S.C.  
14 § 1915(a)(2); *Andrews v. King*, 398 F.3d 1113, 1119 (9th Cir. 2005). From the certified  
15 trust account statement, the Court must assess an initial payment of 20% of (a) the  
16 average monthly deposits in the account for the past six months, or (b) the average  
17 monthly balance in the account for the past six months, whichever is greater, unless the  
18 prisoner has no assets. *See* 28 U.S.C. § 1915(b)(1); 28 U.S.C. § 1915(b)(4). The  
19 institution having custody of the prisoner must collect subsequent payments, assessed at  
20 20% of the preceding month’s income, in any month in which the prisoner’s account  
21 exceeds \$10, and forward those payments to the Court until the entire filing fee is paid.  
22 *See* 28 U.S.C. § 1915(b)(2).

23 In support of his IFP Motion, Plaintiff has submitted a certified copy of his trust  
24 account statement pursuant to 28 U.S.C. § 1915(a)(2) and S.D. CAL. CIVLR 3.2.  
25 *Andrews*, 398 F.3d at 1119. The Court has reviewed Plaintiff’s trust account statement,

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27 <sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after  
28 May 1, 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a)  
(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 as well as the attached prison certificate issued by a Sheriff's Department Deputy at  
2 GBDF verifying his available balances, and has determined that Plaintiff has insufficient  
3 funds to pay an initial partial filing fee. *See* 28 U.S.C. § 1915(b)(4) (providing that “[i]n  
4 no event shall a prisoner be prohibited from bringing a civil action or appealing a civil  
5 action or criminal judgment for the reason that the prisoner has no assets and no means  
6 by which to pay the initial partial filing fee.”); *Taylor*, 281 F.3d at 850 (finding that 28  
7 U.S.C. § 1915(b)(4) acts as a “safety-valve” preventing dismissal of a prisoner’s IFP case  
8 based solely on a “failure to pay . . . due to the lack of funds available to him when  
9 payment is ordered.”).

10 The Court **GRANTS** Plaintiff’s Motion to Proceed IFP (Doc. No. 2) and assesses  
11 no initial partial filing fee per 28 U.S.C. § 1915(b)(1). However, the entire \$350 balance  
12 of the filing fees mandated will be collected and forwarded to the Clerk of the Court  
13 pursuant to the installment payment provisions set forth in 28 U.S.C. § 1915(b)(1).

14 **II. SCREENING PURSUANT TO 28 U.S.C. §§ 1915(e)(2) & 1915A(b)**

15 The PLRA also requires that the Court review complaints filed by all persons  
16 proceeding IFP and by those, like Plaintiff, who are “incarcerated or detained in any  
17 facility [and] accused of, sentenced for, or adjudicated delinquent for, violations of  
18 criminal law or the terms or conditions of parole, probation, pretrial release, or  
19 diversionary program,” “as soon as practicable after docketing.” *See* 28 U.S.C.  
20 §§ 1915(e)(2) and 1915A(b). Under these provisions of the PLRA, the Court must sua  
21 sponte dismiss complaints, or any portions thereof, which are frivolous, malicious, fail  
22 to state a claim, or which seek damages from defendants who are immune. *See* 28 U.S.C.  
23 §§ 1915(e)(2)(B) and 1915A; *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en  
24 banc) (§ 1915(e)(2)); *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010)  
25 (discussing 28 U.S.C. § 1915A(b)).

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1 As currently pleaded, the Court finds Plaintiff's pleading is sufficient to survive  
2 the sua sponte screening required by 28 U.S.C. §§ 1915(e)(2) and 1915A(b).<sup>2</sup> Therefore,  
3 the Court will direct U.S. Marshal service on Plaintiff's behalf. See 28 U.S.C. § 1915(d)  
4 ("The officers of the court shall issue and serve all process, and perform all duties in  
5 [IFP] cases."); FED.R.CIV.P. 4(c)(3) ("[T]he court may order that service be made by a  
6 United States marshal or deputy marshal . . . if the plaintiff is authorized to proceed *in*  
7 *forma pauperis* under 28 U.S.C. § 1915.").

### 8 **III. CONCLUSION AND ORDER**

9 Good cause appearing, **IT IS HEREBY ORDERED** that:

10 1. Plaintiff's Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a) (Doc. No.  
11 9) is **GRANTED**.

12 2. The Watch Commander of GBDF, or his designee, will forward the \$350  
13 total filing fee owed in this matter by collecting monthly payments from Plaintiff's  
14 account in an amount equal to twenty percent (20%) of the preceding month's income  
15 and shall forward payments to the Clerk of the Court each time the amount in the account  
16 exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). ALL PAYMENTS MUST BE  
17 CLEARLY IDENTIFIED BY THE NAME AND NUMBER ASSIGNED TO THIS  
18 ACTION.

19 3. The Clerk of the Court is directed to serve a copy of this Order on the Watch  
20 Commander, George Bailey Detention Facility, 446 Alta Rd., Suite 5300, San Diego,  
21 California, 92158-0002.

22 **IT IS FURTHER ORDERED** that:

23 4. The Clerk will issue a summons as to Plaintiff's First Amended Complaint (Doc. No. 4)  
24 upon Defendants and forward it to Plaintiff along with a blank U.S. Marshal Form 285 for each  
25 Defendant. In addition, the Clerk will provide Plaintiff with a certified copy of this Order and a certified  
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27 <sup>2</sup> Plaintiff is cautioned that "the sua sponte screening and dismissal procedure is  
28 cumulative of, and not a substitute for, any subsequent Rule 12(b)(6) motion that [a  
defendant] may choose to bring." *Teahan v. Wilhelm*, 481 F. Supp. 2d 1115, 1119 (S.D.  
Cal. 2007).

1 copy of his First Amended Complaint (Doc. No. 4) and the summons so that he may  
2 serve each named Defendant. Upon receipt of this “IFP Package,” Plaintiff is directed  
3 to complete the Form 285s as completely and accurately as possible, and to return them  
4 to the United States Marshal according to the instructions provided by the Clerk in the  
5 letter accompanying his IFP package. Upon receipt, the U.S. Marshal will serve a copy  
6 of the Complaint and summons upon each Defendant as directed by Plaintiff on the USM  
7 Form 285s. All costs of service will be advanced by the United States. *See* 28 U.S.C.  
8 § 1915(d); FED.R.CIV.P. 4(c)(3).

9 5. Plaintiff must serve upon the Defendants or, if appearance has been entered  
10 by counsel, upon Defendants’ counsel, a copy of every further pleading or other  
11 document submitted for consideration of the Court. Plaintiff must include with the  
12 original paper to be filed with the Clerk of the Court a certificate stating the manner in  
13 which a true and correct copy of any document was served on Defendants, or counsel for  
14 Defendants, and the date of service. Any paper received by the Court which has not been  
15 filed with the Clerk or which fails to include a Certificate of Service will be disregarded.

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DATED: September 12, 2014

  
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Hon. Anthony J. Battaglia  
U.S. District Judge