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

JONATHAN AYALA,
CDCR #F-25736

Plaintiff,

vs.

W. FERMON; W.L. MONTGOMERY,

Defendants.

Civil No. 14cv1794 GPC (JLB)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEE REQUIRED
AND/OR FAILING TO MOVE TO
PROCEED *IN FORMA PAUPERIS***

Plaintiff, currently housed at Calipatria State Prison, located in Calipatria, California, filed this action on July 25, 2014.

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

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1 of \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a party's failure to
2 pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP")
3 pursuant to 28 U.S.C. § 1915(a).

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

7 **II. Conclusion and Order**

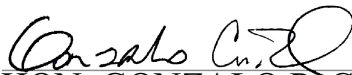
8 For the reasons set forth above, the Court:

9 (1) **DISMISSES** this action without prejudice for failing to pay the \$400 civil
10 filing and administrative fee or submit a Motion to Proceed IFP pursuant to 28 U.S.C.
11 §§ 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).

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

22 DATED: August 1, 2014

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24 
25 HON. GONZALO P. CURIEL
26 United States District Judge

27 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013,
28 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.*