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

JOSHUA DAVID WILLIAMS,  
Inmate Booking No. 14732898,  
  
Plaintiff,  
  
vs.  
  
STATE OF CALIFORNIA, et al.,  
  
Defendants.

Civil No. 14cv1816 GPC (PCL)

**ORDER DENYING MOTION TO  
PROCEED *IN FORMA PAUPERIS*  
AND DISMISSING CASE  
WITHOUT PREJUDICE  
PURSUANT TO  
28 U.S.C. § 1915(a)  
  
(Doc. No. 2)**

Joshua David Williams (“Plaintiff”), currently incarcerated at San Diego Central Jail located 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).

Plaintiff has not prepaid the civil filing fee required by 28 U.S.C. § 1914(a); instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a) (Doc. No. 2).

**I.  
MOTION TO PROCEED IFP**

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of

1 \$400.<sup>1</sup> See 28 U.S.C. § 1914(a). An action may proceed despite a party’s failure to pay  
2 only if the party is granted leave to proceed in forma pauperis (“IFP”) pursuant to 28  
3 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007);  
4 *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). “Under the PLRA [Prison  
5 Litigation Reform Act], all prisoners who file IFP civil actions must pay the full amount  
6 of the filing fee,” regardless of whether their case is ultimately dismissed. See *Taylor*  
7 *v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002) (citing 28 U.S.C. § 1915(b)(1) & (2)).

8 In order to comply with the PLRA, prisoners seeking leave to proceed IFP must  
9 also submit a “certified copy of the trust fund account statement (or institutional  
10 equivalent) for the prisoner for the 6-month period immediately preceding the filing of  
11 the complaint . . . .” 28 U.S.C. § 1915(a)(2). From the certified trust account statement,  
12 the Court assesses an initial payment of 20% of (a) the average monthly deposits in the  
13 account for the past six months, or (b) the average monthly balance in the account for the  
14 past six months, whichever is greater, unless the prisoner has no assets. See 28 U.S.C.  
15 § 1915(b)(1), (4); see *Taylor*, 281 F.3d at 850. Thereafter, the institution having custody  
16 of the prisoner collects subsequent payments, assessed at 20% of the preceding month’s  
17 income, in any month in which the prisoner’s account exceeds \$10, and forwards them  
18 to the Court until the entire filing fee is paid. See 28 U.S.C. § 1915(b)(2).

19 While Plaintiff has filed a Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a),  
20 he has not attached a certified copy of his prison trust account statements or the  
21 institutional certificate of funds or its equivalent, for the 6-month period immediately  
22 preceding the filing of his Complaint. See 28 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2.  
23 Section 1915(a)(2) clearly mandates that prisoners “seeking to bring a civil action  
24 . . . without prepayment of fees . . . shall submit a certified copy of the trust fund  
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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 account statement (or institutional equivalent) . . . for the 6-month period immediately  
2 preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2) (emphasis added).

3 Without Plaintiff’s trust account statement, the Court is simply unable to assess  
4 the appropriate amount of the initial filing fee which is statutorily required to initiate the  
5 prosecution of this action. *See* 28 U.S.C. § 1915(b)(1).

6 **II.**

7 **CONCLUSION AND ORDER**

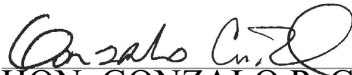
8 For the reasons set forth above, **IT IS ORDERED** that:

9 (1) Plaintiff’s Motion to Proceed IFP (Doc. No. 2) is **DENIED** and the action  
10 is **DISMISSED** without prejudice for failure to prepay the \$400 filing fee mandated by  
11 28 U.S.C. § 1914(a).

12 (2) Plaintiff is **GRANTED** an additional forty-five (45) days from the date of  
13 this Order to either: (1) pay the entire \$400 statutory and administrative filing fee, **or** (2)  
14 file a new Motion to Proceed IFP, *which includes a certified copy of his trust account*  
15 *statement for the 6-month period preceding the filing of his Complaint* pursuant to 28  
16 U.S.C. § 1915(a)(2) and S.D. CAL. CIVLR 3.2(b).

17 The Clerk of the Court is further **DIRECTED** to provide Plaintiff with the Court’s  
18 approved form “Motion and Declaration in Support of Motion to Proceed IFP” for  
19 Plaintiff’s use if he wishes to proceed further. If Plaintiff neither pays the \$400 filing  
20 fee in full nor sufficiently completes and files the attached Motion to Proceed IFP,  
21 *together with a certified copy of his trust account statement within 45 days*, this civil  
22 action will remain dismissed without prejudice pursuant to 28 U.S.C. § 1915(a) and  
23 without further action by the Court.

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25 DATED: August 20, 2014

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28 HON. GONZALO P. CURIEL  
United States District Judge