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

PEDRO RODRIGUEZ,
Inmate Booking No. 1474593

Plaintiff,

vs.

ROBERT S. STALL; LAURA ENGREM;
F. MICHAEL GARCIA;
OFFICE OF ASSIGNED COUNSEL,
SUPERIOR COURT OF SAN DIEGO,

Defendants.

Civil No. 14cv2646 LAB (DHB)

**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 incarcerated at the Vista Detention Facility located in Vista, California, has filed this civil action pursuant to 42 U.S.C. § 1983.

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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 in compliance
10 with 28 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C.
11 § 1914(a); *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

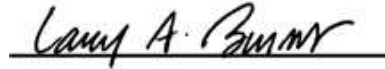
17 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is
18 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*
19 (b) complete and file a Motion to Proceed IFP, which includes a certified copy of his
20 trust account statement for the 6-month period preceding the filing of his Complaint. *See*
21 28 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,
Id. the additional \$50 administrative fee is waived if the plaintiff is granted leave to proceed IFP.

1 or fully complete and submit the enclosed Motion to Proceed IFP within that time, this
2 action shall remain dismissed without prejudice for the reasons set out in this Order.
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4 DATED: November 12, 2014

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6 **HONORABLE LARRY ALAN BURNS**
7 United States District Judge
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