

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

TREVIYON DeSHAWN REW,  
CDCR #AT-3076,

Plaintiff,

vs.

SAN DIEGO SHERIFF DEPUTY  
GERMAN,

Defendant.

Civil No. 14cv2987 BTM (JLB)

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY  
FILING FEE 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)**

Treviyon DeShawn Rew (“Plaintiff”), a state inmate currently incarcerated at California State Prison in Lancaster, California (“LAC”), and proceeding pro se, has filed a civil rights complaint (“Compl.”) pursuant to 42 U.S.C. § 1983 (Doc. No. 1).

Plaintiff claims that while he was detained at the San Diego Central Jail on April 12, 2014, a County Sheriff’s Department Deputy used excessive force against him during a weekend hygiene inspection. *See* Compl. at 3. He seeks both injunctive relief and \$3.1 million in damages. *Id.* at 7.

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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 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 Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez*  
7 *v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the Plaintiff is a prisoner and  
8 he is granted leave to proceed IFP, he remains obligated to pay the entire fee in  
9 "increments," *see Williams v. Paramo*, \_\_ F.3d \_\_, 2015 WL 74144 at \*1 (9th Cir. 2015),  
10 regardless of whether his action is ultimately dismissed. *See* 28 U.S.C. § 1915(b)(1) &  
11 (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

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

16 **II. Conclusion and Order**

17 For the reasons set forth above, the Court hereby:

18 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the  
19 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to  
20 28 U.S.C. §§ 1914(a) and 1915(a); and

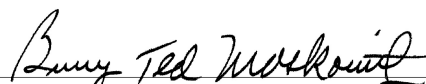
21 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is  
22 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or*  
23 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust  
24 account statement for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

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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       **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
2 with this Court's approved form "Motion and Declaration in Support of Motion to  
3 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee  
4 or complete and submit the enclosed Motion to Proceed IFP within that time, this action  
5 will remain dismissed without prejudice for failing to satisfy 28 U.S.C. § 1914(a)'s fee  
6 requirements and without further Order of the Court.

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8 DATED: February 5, 2015

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11 BARRY TED MOSKOWITZ, Chief Judge  
12 United States District Court  
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