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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

TRAVIS BONDURANT,  
Booking #14745493,

Plaintiff,

v.

DR. T. NEUMAN,

Defendant.

Case No.: 3:16-cv-02546-LAB-AGS

**ORDER:**

**(1) DENYING MOTION TO  
PROCEED IN FORMA PAUPERIS  
AS BARRED BY 28 U.S.C. § 1915(g)  
[ECF Doc. No. 3]; and**

**(2) DISMISSING CIVIL ACTION  
WITHOUT PREJUDICE FOR  
FAILURE TO PAY FILING FEE  
REQUIRED BY 28 U.S.C. § 1914(a);**

Plaintiff, Travis Bondurant, currently housed at the George Bailey Detention Facility, has filed a civil rights Complaint (“Compl.”) pursuant to 42 U.S.C. § 1983. (ECF No. 1.) In addition, Plaintiff has filed a Motion to Proceed In Forma Pauperis (“IFP”) (ECF No. 3).

1 **I. Motion to Proceed IFP**

2 “All persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa County*  
3 *Sheriff’s Office*, 657 F.3d 890, 892 (9th Cir. 2011). “Prisoners” like Plaintiff, however,  
4 “face an additional hurdle.” *Id.* In addition to requiring prisoners to “pay the full amount  
5 of a filing fee,” in “increments” as provided by 28 U.S.C. § 1915(a)(3)(b), *Williams v.*  
6 *Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015), the Prison Litigation Reform Act  
7 (“PLRA”) amended section 1915 to preclude the privilege to proceed IFP:

8 . . . if [a] prisoner has, on 3 or more prior occasions, while incarcerated or  
9 detained in any facility, brought an action or appeal in a court of the United  
10 States that was dismissed on the grounds that it is frivolous, malicious, or  
11 fails to state a claim upon which relief can be granted, unless the prisoner is  
under imminent danger of serious physical injury.

12 28 U.S.C. § 1915(g). “This subdivision is commonly known as the ‘three strikes’  
13 provision.” *Andrews v. King*, 398 F.3d 1113, 1116 n.1 (9th Cir. 2005) (hereafter  
14 “Andrews”).

15 “Pursuant to § 1915(g), a prisoner with three strikes or more cannot proceed IFP.”  
16 *Id.*; see also *Andrews v. Cervantes*, 493 F.3d 1047, 1052 (9th Cir. 2007) (hereafter  
17 “Cervantes”) (under the PLRA, “[p]risoners who have repeatedly brought unsuccessful  
18 suits may entirely be barred from IFP status under the three strikes rule[.]”). The  
19 objective of the PLRA is to further “the congressional goal of reducing frivolous prisoner  
20 litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).  
21 “[S]ection 1915(g)’s cap on prior dismissed claims applies to claims dismissed both  
22 before and after the statute’s effective date.” *Id.* at 1311.

23 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner,  
24 which were dismissed on the ground that they were frivolous, malicious, or failed to state  
25 a claim,” *Andrews*, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the  
26 district court styles such dismissal as a denial of the prisoner’s application to file the  
27 action without prepayment of the full filing fee.” *O’Neal v. Price*, 531 F.3d 1146, 1153

1 (9th Cir. 2008). Once a prisoner has accumulated three strikes, he is prohibited by section  
2 1915(g) from pursuing any other IFP action in federal court unless he can show he is  
3 facing “imminent danger of serious physical injury.” See 28 U.S.C. § 1915(g); Cervantes,  
4 493 F.3d at 1051-52 (noting § 1915(g)’s exception for IFP complaints which “make[] a  
5 plausible allegation that the prisoner faced ‘imminent danger of serious physical injury’  
6 at the time of filing.”).

## 7 **II. Application to Plaintiff**

8 As an initial matter, the Court has carefully reviewed Plaintiff’s Complaint and has  
9 ascertained that it does not contain “plausible allegations” which suggest he “faced  
10 ‘imminent danger of serious physical injury’ at the time of filing.” Cervantes, 493 F.3d at  
11 1055 (quoting 28 U.S.C. § 1915(g)).

12 A court “‘may take notice of proceedings in other courts, both within and without  
13 the federal judicial system, if those proceedings have a direct relation to matters at  
14 issue.’” *Bias v. Moynihan*, 508 F.3d 1212, 1225 (9th Cir. 2007) (quoting *Bennett v.*  
15 *Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir. 2002)); see also *United States ex rel.*  
16 *Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

17 Thus, this Court takes judicial notice that Plaintiff, while incarcerated, has brought  
18 at least three prior civil actions which have been dismissed on the grounds that they were  
19 frivolous, malicious, or failed to state a claim upon which relief may be granted. See 28  
20 U.S.C. § 1915(g).

21 They are:

- 22 1) *Bondurant v. Gonzalez, et al.*, Civil Case No. 31:11-cv-00159-GBC (E.D.  
23 Cal. Apr. 23, 2012) (Order Dismissing Action, with prejudice, for failure to  
24 state a claim upon which relief may be granted) (strike 1);
- 25 2) *Bondurant v. K. Kannon, et al.*, Civil Case No. 1:11-cv-01725-DLB (E.D.  
26 Cal. Feb. 12, 2013) (Order Dismissing Action for failure to obey Court  
27 Order and failure to state a claim) (strike two);

1           3)     Bondurant v. Sewell, et al., Civil Case No. 3:13-cv-00214-CAB-MDD (S.D.  
2           Cal. Nov. 16, 2016) (Order Dismissing Action for failure to comply with  
3           Court Order and for failing to state a claim) (strike three);

4           4)     Bondurant v. Lamb, et al., (Order Dismissing Action for failing to comply  
5           with Court Order and for failing to state a claim) (strike four).

6           Accordingly, because Plaintiff has, while incarcerated, accumulated at least the  
7 three “strikes” permitted pursuant to § 1915(g), and he fails to make a “plausible  
8 allegation” that he faced imminent danger of serious physical injury at the time he filed  
9 his Complaint, he is not entitled to the privilege of proceeding IFP in this action. See  
10 Cervantes, 493 F.3d at 1055; Rodriguez, 169 F.3d at 1180 (finding that 28 U.S.C.  
11 § 1915(g) “does not prevent all prisoners from accessing the courts; it only precludes  
12 prisoners with a history of abusing the legal system from continuing to abuse it while  
13 enjoying IFP status”); see also Franklin v. Murphy, 745 F.2d 1221, 1231 (9th Cir. 1984)  
14 (“[C]ourt permission to proceed IFP is itself a matter of privilege and not right.”).

15 **III. Conclusion and Order**

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

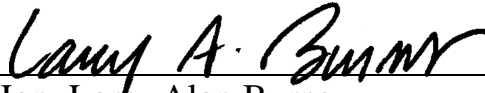
17           (1)     DENIES Plaintiff’s Motion to Proceed IFP (ECF Doc. No. 3) as barred by  
18 28 U.S.C. § 1915(g);

19           (2)     DISMISSES this civil action sua sponte without prejudice for failing to  
20 prepay the \$400 civil and administrative filing fees required by 28 U.S.C. § 1914(a).

21           The Clerk shall close the file.

22           IT IS SO ORDERED.

23  
24 Dated: February 15, 2017

25   
26 Hon. Larry Alan Burns  
27 United States District Judge  
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