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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 Alberto Jose Del Muro Guerrero,
12 Plaintiff,
13 v.
14 Unknown,
15 Defendant.
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Case No.: 17cv1058-CAB-NLS

**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)**

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18 Plaintiff James Lynn Hines, proceeding pro se, has filed a civil rights complaint
19 pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*,
20 403 U.S. 388 (1971). *See* Doc. No. 1. All parties instituting any civil action, suit or
21 proceeding in a district court of the United States, except an application for writ of habeas
22 corpus, must pay a filing fee of \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed
23 despite a plaintiff's failure to prepay the entire fee only if he is granted leave to proceed
24 IFP pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047,
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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50.
28 *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14
(eff. Dec. 1, 2014). The additional \$50 administrative fee does not apply to persons granted leave to
proceed IFP. *Id.*

1 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

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

6 Accordingly, the Court **DISMISSES** this action *sua sponte* without prejudice for
7 failure to pay the \$400 civil filing and administrative fee or to submit a Motion to
8 Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a). The Clerk of Court is
9 instructed to close the case.

10 **IT IS SO ORDERED.**

11 Dated: May 24, 2017



Hon. Cathy Ann Bencivengo
United States District Judge