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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *RJM* DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

GARLAND AARON JONES,  
Plaintiff,  
v.  
MRS. TISCORNIA, Librarian,  
Defendant.

Case No.: 3:17-cv-01592-BEN- AGS  
**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  
FILE TO PROCEED IN FORMA  
PAUPERIS PURSUANT TO  
28 U.S.C. § 1915(a)**

GARLAND AARON JONES ("Plaintiff"), currently incarcerated at Richard J. Donovan Correctional Facility located in San Diego, California, and proceeding pro se, has filed a civil rights complaint ("Compl.") pursuant to 42 U.S.C. § 1983 (ECF No. 1).

**I. Failure to Pay Filing Fee or Request IFP Status**

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 \$400. See 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if he is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the Plaintiff is a prisoner, and even if he is granted leave to commence his suit IFP, he

1 remains obligated to pay the entire filing fee in “increments,” *see Williams v. Paramo*,  
2 775 F.3d 1182, 1185 (9th Cir. 2015), regardless of whether his case is ultimately  
3 dismissed. *See* 28 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847  
4 (9th Cir. 2002).

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

9 **II. Conclusion and Order**

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

11 (1) **DISMISSES** this action sua sponte without prejudice for failure to pay the  
12 \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to  
13 28 U.S.C. §§ 1914(a) and 1915(a); and

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

19 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
20 with this Court’s approved form “Motion and Declaration in Support of Motion to  
21 Proceed In Forma Pauperis.” If Plaintiff fails to either prepay the \$400 civil filing fee or  
22 complete and submit the enclosed Motion to Proceed IFP within 45 days, this action will  
23 remain dismissed without prejudice based on Plaintiff’s failure to satisfy 28 U.S.C. §  
24 1914(a)’s fee requirements and without further Order of the Court.

25  
26 Dated: 8/28, 2017

27   
28 HON. ROGER T. BENITEZ  
United States District Judge