

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALEX GRIFFIN.

Plaintiff.

V.

OFFICER SMITH,

Defendant.

Case No.: 17-CV-2272-JLS-KSC

**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)**

Alex Griffin (“Plaintiff”), proceeding pro se, has filed a civil rights action, (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

1 \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff's failure to
2 prepay the entire fee only if he is granted leave to proceed *In Forma Pauperis* ("IFP")
3 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir.
4 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the Plaintiff
5 is a prisoner, and even if he is granted leave to commence his suit IFP, he remains obligated
6 to pay the entire filing fee in "increments," *see Williams v. Paramo*, 775 F.3d 1182, 1185
7 (9th Cir. 2015), regardless of whether his case is ultimately dismissed. *See* 28 U.S.C.
8 § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

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

13 **II. Conclusion and Order**

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

15 (1) **DISMISSES WITHOUT PREJUDICE** this action sua sponte for failure to
16 pay the \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP
17 pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

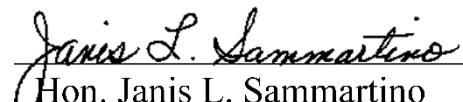
18 (2) **GRANTS** Plaintiff forty-five (45) days leave from the date this Order is filed
19 to: (a) prepay the entire \$400 civil filing and administrative fee in full; or (b) complete and
20 file a Motion to Proceed IFP which includes a certified copy of his trust account statement
21 for the 6-month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

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25 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50. *See*
26 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff.
27 Dec. 1, 2014). The additional \$50 administrative fee does not apply to persons 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 Proceed
3 *In Forma Pauperis.*" If Plaintiff fails to either prepay the \$400 civil filing fee or complete
4 and submit the enclosed Motion to Proceed IFP within 45 days, this action will remain
5 dismissed without prejudice based on Plaintiff's failure to satisfy 28 U.S.C. § 1914(a)'s fee
6 requirements and without further Order of the Court.

7 **IT IS SO ORDERED.**

8 Dated: November 14, 2017


9 Hon. Janis L. Sammartino
10 United States District Judge

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