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

STEVEN WAYNE BONILLA
J-48500,

Plaintiff,

v.

COURT CLERK SUPERVISOR,

Defendant.

Case No.: 3:20-cv-01154-BAS-WVG

ORDER:

- (1) DENYING MOTION TO PROCEED IN FORMA PAUPERIS (ECF No. 4);**
- AND**
- (2) DISMISSING CIVIL ACTION FOR FAILURE TO PAY FILING FEE**

Plaintiff Steven Wayne Bonilla, proceeding pro se and currently incarcerated at San Quentin State Prison has filed a civil action claiming the “Court Clerk’s Office is acting in collusion with the Judge to willfully deprive me of my constitutional and statutory rights, by practicing law without a license.” (Compl. at 1, ECF No. 1.)

On June 30, 2020, the Court dismissed Plaintiff’s Complaint for failure to pay the filing fee required by 28 U.S.C. Section 1914(a) and/or to file a motion to proceed in forma pauperis (“IFP”) pursuant to 28 U.S.C. Section 1915(a), and granted Plaintiff forty-five days leave in which to pay the filing fee or file a complete motion to proceed IFP. (*See* ECF No. 2, at 1–2.) Although Plaintiff did not pay the filing fee or file a motion to proceed IFP within the time allotted, Plaintiff did file a Motion to Proceed IFP pursuant to 28 U.S.C. Section 1915(a) on October 6, 2020. (*See* ECF No. 4.)

1 **I. Motion to Proceed IFP**

2 **A. Standard of Review**

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

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

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

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*”) (stating that under the PLRA, “[p]risoners who have repeatedly brought
18 unsuccessful suits may entirely be barred from IFP status under the three strikes
19 rule . . .”). The objective of the PLRA is to further “the congressional goal of reducing
20 frivolous prisoner litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th
21 Cir. 1997). “[S]ection 1915(g)’s cap on prior dismissed claims applies to claims dismissed
22 both 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, which
24 were dismissed on the ground that they were frivolous, malicious, or failed to state a claim,”
25 *Andrews*, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the district court
26 styles such dismissal as a denial of the prisoner’s application to file the action without
27 prepayment of the full filing fee.” *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008).
28 When courts “review a dismissal to determine whether it counts as a strike, the style of the

1 dismissal or the procedural posture is immaterial. Instead, the central question is whether
2 the dismissal ‘rang the PLRA bells of frivolous, malicious, or failure to state a claim.’” *El-*
3 *Shaddai v. Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738
4 F.3d 607, 615 (4th Cir. 2013)). “When . . . presented with multiple claims within a single
5 action,” however, courts may “assess a PLRA strike only when the case as a whole is
6 dismissed for a qualifying reason under the Act.” *Hoffman v. Pulido*, 928 F.3d 1147, 1152
7 (9th Cir. 2019) (citing *Washington v. L.A. Cty. Sheriff’s Dep’t*, 833 F.3d 1048, 1057 (9th
8 Cir. 2016)).

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

15 **B. Discussion**

16 As a preliminary matter, the Court has reviewed Plaintiff’s Complaint and finds that
17 it does not contain any “plausible allegations” to suggest that he “faced ‘imminent danger
18 of serious physical injury’ at the time of filing.” *Cervantes*, 493 F.3d at 1055 (quoting 28
19 U.S.C. § 1915(g)). Instead, Plaintiff alleges that the “Court Clerk’s Office [is] erroneously
20 refusing/failing to file a petition challenging the judge’s ruling without jurisdiction.”
21 (Compl. at 1.)

22 While Defendants typically carry the initial burden to produce evidence
23 demonstrating a prisoner is not entitled to proceed IFP, *Andrews*, 398 F.3d at 1119, “in
24 some instances, the district court docket may be sufficient to show that a prior dismissal
25 satisfies at least one on the criteria under § 1915(g) and therefore counts as a strike.” *Id.*
26 at 1120. That is true here.

1 Based on the dockets of many court proceedings available on PACER,¹ this Court
2 finds that Plaintiff Steven Wayne Bonilla, identified as CDCR #J-48500, while
3 incarcerated, has had dozens of prisoner civil actions or appeals dismissed on the grounds
4 that they were frivolous, malicious, or failed to state a claim upon which relief may be
5 granted. *See In re Steven Bonilla*, Nos. C 11–6306 CW (PR), C 11–6307 CW (PR), C 12–
6 0026 CW (PR), C 12–0027 CW (PR), C 12–0206 CW (PR), 2012 WL 216401, at *1 (N.D.
7 Cal. Jan. 24, 2012) (noting Plaintiff’s litigation history in the Northern District of
8 California, including the dismissal of 34 pro se civil rights actions between June 1 and
9 October 31, 2011 alone, which were dismissed “because the allegations in [his] complaints
10 d[id] not state a claim for relief under § 1983.”); *id.* at *3 (“The following five actions are
11 DISMISSED without prejudice and without leave to amend for failure to state a claim upon
12 which relief may be granted: *Bonilla v. Superior Court of Alameda County*, C 11-6306;
13 *Bonilla v. Alameda County District Attorney’s Office*, C 11-6307; *Bonilla v. California*
14 *Supreme Court*, C 12-0026; *Bonilla v. Cullen*, C 12-0027; *Bonilla v. California Supreme*
15 *Court*, C 12-0206.”); *id.* at *3 n.1 (“The Court recently informed Plaintiff that, in
16 accordance with 28 U.S.C. § 1915(g), he no longer qualifies to proceed in forma pauperis
17 in any civil rights action.” (citing *In re Steven Bonilla*, Nos. C 11-3180, et seq. CW (PR),
18 Order of Dismissal at 6:23-7:19)).

19 Accordingly, because Plaintiff has, while incarcerated, accumulated far more than
20 the three “strikes” permitted by Section 1915(g), and he fails to make any plausible
21 allegation that he faced imminent danger of serious physical injury at the time he filed this
22 case, he is not entitled to the privilege of proceeding IFP. *See Cervantes*, 493 F.3d at 1055;
23 *Rodriguez*, 169 F.3d at 1180 (noting that 28 U.S.C. Section 1915(g) “does not prevent all

24 ¹ A court may take judicial notice of its own records, *see Gerritsen v. Warner Bros. Entm’t Inc.*, 112 F.
25 Supp. 3d 1011, 1034 (C.D. Cal. 2015); *Molus v. Swan*, No. 3:05-cv-00452-MMA-WMc, 2009 WL
26 160937, at *2 (S.D. Cal. Jan. 22, 2009) (citing *United States v. Author Servs.*, 804 F.2d 1520, 1523 (9th
27 Cir. 1986)). It also “may take notice of proceedings in other courts, both within and without the federal
28 judicial system, if those proceedings have a direct relation to matters at issue.” *Bias v. Moynihan*, 508
F.3d 1212, 1225 (9th Cir. 2007) (quoting *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir.
2002)); *see also United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244,
248 (9th Cir. 1992).

1 prisoners from accessing the courts; it only precludes prisoners with a history of abusing
2 the legal system from continuing to abuse it while enjoying IFP status”); *see also Franklin*
3 *v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) (“[C]ourt permission to proceed IFP is
4 itself a matter of privilege and not right.”).

5 **II. Conclusion and Orders**

6 For the reasons set forth above, the Court **DENIES** Plaintiff’s Motion to Proceed
7 IFP (ECF No. 4) as barred by 28 U.S.C. Section 1915(g), **DISMISSES** this civil action
8 based on Plaintiff’s failure to pay the civil filing fee required by 28 U.S.C. Section 1914(a),
9 **CERTIFIES** that an IFP appeal from this Order would not be taken in good faith pursuant
10 to 28 U.S.C. Section 1915(a)(3), and **DIRECTS** the Clerk of the Court to close the file.

11 **IT IS SO ORDERED.**

12
13 **DATED: October 14, 2020**


Hon. Cynthia Bashant
United States District Judge