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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RYAN FROST,

Plaintiff,

vs.

CHILD AND FAMILY SERVICES OF
SAN BERNARDINO COUNTY, and
SAN BERNARDINO JUVENILE
COURT,

Defendants.

Case No.: 3:20-cv-2402-JLS-BLM

**ORDER DISMISSING CIVIL
ACTION FOR FAILURE TO PAY
FILING FEES REQUIRED BY
28 U.S.C. § 1914(a)**

(ECF No. 1)

Plaintiff Ryan Frost, proceeding pro se, filed this action against Defendants Child and Family Services of San Bernardino County and San Bernardino Juvenile Court on December 8, 2020. See ECF No. 1. Plaintiff is alleging Fourth and Fourteenth Amendments violations based on Defendants placing Plaintiff’s three children in foster care.

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

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1 \$400. *See* 28 U.S.C. § 1914(a).¹ The 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). Section 1915(a)(2)
5 requires all persons seeking to proceed without full prepayment of fees to submit an
6 affidavit that includes a statement of all assets possessed and which demonstrates an
7 inability to pay. *See Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015).

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

12 **II. Conclusion and Order**

13 Accordingly, the Court:

14 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the
15 \$400 civil filing and administrative fee or to submit a motion to proceed IFP pursuant to
16 28 U.S.C. §§ 1914(a) and 1915(a); and

17 (2) **GRANTS** Plaintiff thirty (30) days from the date of this Order to re-open his
18 case by:

19 (a) Prepaying the entire \$400 civil filing and administrative fee required by
20 28 U.S.C. § 1914(a) in full; *or*

21 (b) Completing and filing a Motion to Proceed IFP with an affidavit that
22 includes a statement of all Plaintiff’s assets as required by 28 U.S.C. § 1915(a)(1)
23 and S.D. Cal. CivLR 3.2(b).

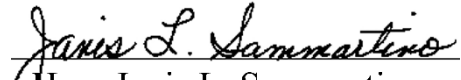
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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50. *See*
28 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff.
Dec. 1, 2014)). The additional \$50 administrative fee does not apply to persons granted leave to proceed
IFP. *Id.*

1 If Plaintiff fails to comply with these instructions within 30 days, this action will
2 remain dismissed without prejudice based on his failure to satisfy 28 U.S.C. § 1914(a)'s
3 fee requirements and without further Order of the Court.

4 **IT IS SO ORDERED.**

5 Dated: January 6, 2021


6 Hon. Janis L. Sammartino
7 United States District Judge

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