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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STEVEN WAYNE BONILLA,
12 CDCR #J-48500,

13 Plaintiff,

14 vs.

15 CYNTHIA BASHANT, JOHN DOES 1–
16 1000,

17 Defendants.
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Case No.: 3:24-cv-2368-DMS-DEB

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

19 Plaintiff Steven Wayne Bonilla (“Plaintiff”), proceeding pro se and currently
20 incarcerated at California Medical Facility, has filed a civil action pursuant to 42 U.S.C.
21 § 1983, along with a Request for Judicial Notice. *See* ECF Nos. 1, 2. Plaintiff has not filed
22 a Motion to Proceed *In Forma Pauperis* (“IFP”) in this matter, nor has he paid the initial
23 civil filing fee required by 28 U.S.C. § 1914(a). For the reasons explained below, the Court
24 dismisses the case and denies the request for judicial notice as moot.

25 **I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

26 Any person filing a civil case such as this one must pay a filing fee of \$405. *See* 28
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1 U.S.C. § 1914(a).¹ The case may go forward without the plaintiff paying the entire filing
2 fee, though, if the court grants him permission to proceed *in forma pauperis*—which means
3 as a person without the money or resources to pay the filing fee. *See Andrews v. Cervantes*,
4 493 F.3d 1047, 1052 (9th Cir. 2007) (“*Cervantes*”); *cf. Hymas v. U.S. Dep’t of the Interior*,
5 73 F.4th 763, 765 (9th Cir. 2023) (“[W]here [an] IFP application is denied altogether,
6 Plaintiff’s case [cannot] proceed unless and until the fee[s] [a]re paid.”).

7 The statute that sets out the rules for this is 28 U.S.C. § 1915(a). Section 1915(a)(2)
8 requires all persons who want to pursue a case without paying the filing fee to file a
9 document called an affidavit. That affidavit must include a statement of all assets, or things
10 of value, the plaintiff possesses and must demonstrate the plaintiff’s inability to pay the
11 filing fee. *See Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015). This helps the
12 court to evaluate the plaintiff’s ability to pay the filing fee.

13 Plaintiffs who are imprisoned at the time they file their civil case must submit another
14 document as well, called a “trust fund account statement.” The Prison Litigation Reform Act
15 (“PLRA”) requires imprisoned plaintiffs to submit this “certified copy of the trust fund
16 account statement (or institutional equivalent) for . . . the 6-month period immediately
17 preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2); *Andrews v. King*, 398 F.3d
18 1113, 1119 (9th Cir. 2005). “While the previous version of the IFP statute granted courts the
19 authority to waive fees for any person ‘unable to pay[,]’ . . . the PLRA amended the IFP
20 statute to include a carve-out for prisoners: under the current version of the IFP statute, ‘if
21 a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be
22 required to pay the full amount of a filing fee.’” *Hymas*, 73 F.4th at 767 (quoting 28 U.S.C.
23 § 1915(b)(1)). Section 1915(b) “provides a structured timeline for collecting this fee.” *Id.*
24 (citing 28 U.S.C. § 1915(b)(1)–(2)).

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27 ¹ In addition to the \$350 statutory fee, civil plaintiffs must pay an additional administrative fee of \$55. *See*
28 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff.
Dec. 1, 2023)). The additional \$55 administrative fee does not apply to persons granted leave to proceed
in forma pauperis. *Id.*

1 Plaintiff has not paid the \$405 filing and administrative fee required to begin this civil
2 action. He has also has not submitted a properly supported Motion to Proceed *IFP*. *See*
3 *Escobedo*, 787 F.3d at 1234. Therefore, his case cannot go forward. *See* 28 U.S.C. § 1914(a);
4 *Andrews*, 493 F.3d at 1051.

5 II. LEAVE TO PROCEED IFP

6 Even if Plaintiff had filed a Motion to Proceed IFP, the Court finds he is not entitled
7 to do so in this action for the reasons set forth below.

8 A. Standard of Review

9 “All persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa Cnty.*
10 *Sheriff’s Office*, 657 F.3d 890, 892 (9th Cir. 2011). Prisoners, like Plaintiff, however, “face
11 an additional hurdle.” *Id.* In addition to requiring prisoners to “pay the full amount of a filing
12 fee” in installments for the suits or appeals they launch, *see Bruce v. Samuels*, 577 U.S. 82,
13 85 (2016) (citing 28 U.S.C. § 1915(b)(1)–(2), *Williams v. Paramo*, 775 F.3d 1182, 1185 (9th
14 Cir. 2015), the PLRA also amended Section 1915 to preclude the privilege to proceed IFP:

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

19 28 U.S.C. § 1915(g). This subdivision is commonly known as the “PLRA’s ‘three strikes’
20 rule.” *Washington v. Los Angeles Cnty. Sheriff’s Dep’t*, 833 F.3d 1048, 1054 (9th Cir. 2016).
21 “Pursuant to § 1915(g), a prisoner with three strikes or more cannot proceed IFP.” *Andrews*,
22 398 F.3d at 1116 n.1. The PLRA furthers “the congressional goal of reducing frivolous
23 prisoner litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).

24 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner, which
25 were dismissed on the ground that they were frivolous, malicious, or failed to state a claim,”
26 *Andrews*, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the district court styles
27 such dismissal as a denial of the prisoner’s application to file the action without prepayment
28 of the full filing fee.” *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008). When courts

1 “review a dismissal to determine whether it counts as a strike, the style of the dismissal or
2 the procedural posture is immaterial. Instead, the central question is whether the dismissal
3 ‘rang the PLRA bells of frivolous, malicious, or failure to state a claim.’” *El-Shaddai v.*
4 *Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738 F.3d 607, 615
5 (4th Cir. 2013)).

6 Once a prisoner has accumulated three strikes, he is prohibited by Section 1915(g)
7 from pursuing any other IFP action in federal court unless he can show he is facing
8 “imminent danger of serious physical injury.” *See* 28 U.S.C. § 1915(g); *Cervantes*, 493 F.3d
9 at 1051–52 (noting Section 1915(g)’s exception for IFP complaints which “make[] a
10 plausible allegation that the prisoner faced ‘imminent danger of serious physical injury’ at
11 the time of filing.”). In addition to being “imminent,” that danger must also be “both fairly
12 traceable to unlawful conduct alleged in [the] complaint and redressable by the court.” *Ray*
13 *v. Lara*, 31 F.4th 692, 701 (9th Cir. 2022).

14 **B. Discussion**

15 The Court has reviewed Plaintiff’s Complaint and finds that it does not contain any
16 “plausible allegations” to suggest that he “faced ‘imminent danger of serious physical
17 injury’ at the time of filing.” *Cervantes*, 493 F.3d at 1055 (quoting 28 U.S.C. § 1915(g)).
18 Rather, Plaintiff alleges he was arrested based on a “false affidavit” and that an unnamed
19 judge “discriminated” against him. *See* ECF No. 1 at 3.

20 Plaintiff has not moved to proceed IFP in this case; nevertheless, the Court finds it
21 would be futile for him to do so. While Defendants typically carry the initial burden to
22 produce evidence demonstrating a prisoner is not entitled to proceed IFP, *Andrews*, 398 F.3d
23 at 1119, “in some instances, the district court docket may be sufficient to show that a prior
24 dismissal satisfies at least one on the criteria under § 1915(g) and therefore counts as a
25 strike.” *Id.* at 1120. That is true here.

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

17 Accordingly, because Plaintiff has, while incarcerated, accumulated far more than the
18 three “strikes” permitted by Section 1915(g), and he fails to make any plausible allegation
19 that he faced imminent danger of serious physical injury at the time he filed this case, he is
20 not entitled to the privilege of proceeding IFP. *See Cervantes*, 493 F.3d at 1055; *Rodriguez*
21 *v. Cook*, 169 F.3d 1176, 1180 (9th Cir. 1999) (noting that 28 U.S.C. § 1915(g) “does not
22 prevent all prisoners from accessing the courts; it only precludes prisoners with a history of
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25 ² A court may take judicial notice of its own records, *see Molus v. Swan*, No. 3:05-cv-00452-MMA-WMc,
26 2009 WL 160937, at *2 (S.D. Cal. Jan. 22, 2009) (citing *United States v. Author Servs.*, 804 F.2d 1520,
27 1523 (9th Cir. 1986)); *Gerritsen v. Warner Bros. Entm’t Inc.*, 112 F. Supp. 3d 1011, 1034 (C.D. Cal. 2015),
28 and “may take notice of proceedings in other courts, both within and without the federal judicial system,
if those proceedings have a direct relation to matters at issue.” *Bias*, 508 F.3d at 1225 (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 abusing the legal system from continuing to abuse it while enjoying IFP status”). When a
2 prisoner-litigant “has accumulated three prior dismissals on statutorily enumerated
3 grounds[,] . . . a court may not afford him *in forma pauperis* status with respect to his
4 additional civil actions.” *Coleman v. Tollefson*, 575 U.S. 532, 534 (2015). This is because
5 “court permission to proceed IFP is itself a matter of privilege and not right.” *Franklin v.*
6 *Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984).

7 III. CONCLUSION

8 Accordingly, the Court:

9 1. **DISMISSES** this case based on Plaintiff’s failure to pay the civil filing fee
10 required by 28 U.S.C. § 1914(a).

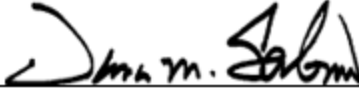
11 2. **DENIES** Plaintiff’s request for judicial notice as moot.

12 3. **CERTIFIES** that an IFP appeal from this Order would not be taken in good
13 faith pursuant to 28 U.S.C. § 1915(a)(3).

14 4. **DIRECTS** the Clerk of the Court to close the file **and accept no further**
15 **documents for filings**, except a timely Notice of Appeal, which this Court **CERTIFIES**
16 would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3).

17 **IT IS SO ORDERED.**

18 Dated: January 8, 2025

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21 Hon. Dana M. Sabraw, Chief Judge
22 United States District Court
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