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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,
CDCR #J-48500,

Plaintiff,

vs.

ALAMEDA COUNTY SUPERIOR
COURT,

Defendant.

Case No.: 3:25-cv-0381-AJB-MMP

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

Plaintiff Steven Wayne Bonilla (“Plaintiff”), proceeding pro se and currently incarcerated at California Medical Facility, has filed a civil action seeking to invalidate his Alameda County Superior Court conviction and alleging numerous violations of his federal Constitutional rights, which has been docketed as a civil rights Complaint pursuant to 42 U.S.C. § 1983.¹ See generally ECF No. 1. Plaintiff has not filed a motion to proceed in

¹ While Petitioner has captioned his pleading as a “Writ of Error Coram Nobis,” see ECF No. 1 at 1, because the civil filing fee is identical for both actions, see 28 U.S.C. § 1914(a), and because as discussed

1 *forma pauperis* (“IFP”) in this matter, nor has he paid the initial civil filing fee required by
2 28 U.S.C. § 1914(a). For the reasons explained below, the Court **DISMISSES** the case.

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

4 Any person filing a civil case such as this one must pay a filing fee of \$405. *See* 28
5 U.S.C. § 1914(a).² The case may only go forward without the plaintiff paying the entire
6 filing fee if the court grants him permission to proceed IFP—which means as a person
7 without the money or resources to afford it. *See Andrews v. Cervantes*, 493 F.3d 1047,
8 1052 (9th Cir. 2007) (“*Cervantes*”); *cf. Hymas v. U.S. Dep’t of the Interior*, 73 F.4th 763,
9 765 (9th Cir. 2023) (“[W]here [an] IFP application is denied altogether, Plaintiff’s case
10 [cannot] proceed unless and until the fee[s] [a]re paid.”).

11 The statute that sets out the rules for this is 28 U.S.C. § 1915(a). Section 1915(a)(2)
12 requires all persons who want to pursue a case without paying the filing fee to file an
13 affidavit that includes a statement of all assets, or things of value, the plaintiff possesses,
14 and demonstrates his inability to pay the filing fee. *See Escobedo v. Applebees*, 787 F.3d
15 1226, 1234 (9th Cir. 2015).

16 The Prison Litigation Reform Act (“PLRA”) also requires prisoners to submit a
17 certified copy of their trust fund account statement, or an institutional equivalent) for the
18 6-month period immediately preceding the filing of the complaint. *See* 28 U.S.C.
19 § 1915(a)(2); *Andrews v. King*, 398 F.3d 1113, 1119 (9th Cir. 2005). “While the previous
20 version of the IFP statute granted courts the authority to waive fees for any person ‘unable
21 to pay[,]’ . . . the PLRA amended the IFP statute to include a carve-out for prisoners: under
22 the current version of the IFP statute, ‘if a prisoner brings a civil action or files an appeal
23

24
25 below, dismissal is warranted for failure to pay the statutorily required filing fee, the outcome is the same
26 regardless of how the instant action has been docketed.

27 ² In addition to the \$350 statutory fee, civil plaintiffs must pay an additional administrative fee of \$55.
28 *See* 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 in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee.”
2 *Hymas*, 73 F.4th at 767 (quoting 28 U.S.C. § 1915(b)(1)). Section 1915(b) “provides a
3 structured timeline for collecting this fee.” *Id.* (citing 28 U.S.C. § 1915(b)(1)–(2)).

4 Plaintiff has not paid the \$405 filing and administrative fee required. He has also
5 failed to file a properly supported motion to proceed IFP. *See Escobedo*, 787 F.3d at 1234.
6 Therefore, his case cannot continue. *See* 28 U.S.C. § 1914(a).

7 II. LEAVE TO PROCEED IFP

8 Even if the Court granted Plaintiff leave to file a motion to proceed IFP, however, it
9 finds he is not entitled to that privilege for the reasons set out below.

10 A. Standard of Review

11 “All persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa Cnty.*
12 *Sheriff’s Office*, 657 F.3d 890, 892 (9th Cir. 2011). Prisoners, like Plaintiff, however, “face
13 an additional hurdle.” *Id.* In addition to requiring prisoners to “pay the full amount of a
14 filing fee” in installments for the suits or appeals they launch, *see Bruce v. Samuels*, 577
15 U.S. 82, 85 (2016) (citing 28 U.S.C. § 1915(b)(1)–(2), *Williams v. Paramo*, 775 F.3d 1182,
16 1185 (9th Cir. 2015), the PLRA also amended Section 1915 to preclude the privilege to
17 proceed IFP:

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

22 28 U.S.C. § 1915(g). This subdivision is commonly known as the “PLRA’s ‘three strikes’
23 rule.” *Washington v. Los Angeles Cnty. Sheriff’s Dep’t*, 833 F.3d 1048, 1054 (9th Cir.
24 2016). “Pursuant to § 1915(g), a prisoner with three strikes or more cannot proceed IFP.”
25 *Andrews*, 398 F.3d at 1116 n.1. The PLRA furthers “the congressional goal of reducing
26 frivolous prisoner litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th
27 Cir. 1997).

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1 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner, which
2 were dismissed on the ground [that they] were frivolous, malicious, or fail[ed] to state a
3 claim[,]” *Andrews*, 398 F.3d at 1116 n.1 (quotations omitted), “even if the district court
4 styles such dismissal as [a] denial of the prisoner’s application to file the action without
5 prepayment of the full filing fee.” *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008).
6 When courts “review a dismissal to determine whether it counts as a strike, the style of the
7 dismissal or the procedural posture is immaterial. Instead, the central question is whether
8 the dismissal ‘rang the PLRA bells of frivolous, malicious, or failure to state a claim.’” *El-*
9 *Shaddai v. Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738
10 F.3d 607, 615 (4th Cir. 2013)).

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

19 **B. Discussion**

20 The Court has reviewed Plaintiff’s Complaint and finds it fails to contain any
21 “plausible allegations” to suggest that he “faced ‘imminent danger of serious physical
22 injury’ at the time of filing.” *Cervantes*, 493 F.3d at 1055 (quoting 28 U.S.C. § 1915(g)).
23 Instead, Plaintiff claims his “Constitutional Civil Rights to Due Process were violated” due
24 to an allegedly false affidavit submitted in support of his arrest warrant. ECF No. 1 at 5.
25 He further claims his conviction was “obtained by false information obtained by the fruit
26 of a federal grand jury subpoena,” which he contends never existed. *Id.* Plaintiff seeks a
27 writ directed to the judges of the Alameda County Superior Court “commanding them to
28 examine the record of the case” and correct these errors. *Id.* at 2.

1 Thus, while Plaintiff has not moved to proceed IFP in this case; it would be futile
2 for him to do so. Defendants typically carry the initial burden to produce evidence
3 demonstrating a prisoner is not entitled to proceed IFP. *Andrews*, 398 F.3d at 1119.
4 However, “in some instances, the district court docket may be sufficient to show that []
5 prior dismissal[s] satisf[y] at least one on the criteria under § 1915(g)” and therefore count
6 as strikes against him. *Id.* at 1120. That is true here.

7 Based on the dockets of many court proceedings available on PACER,³ this Court
8 finds that Plaintiff Steven Wayne Bonilla, identified as CDCR #J-48500, while
9 incarcerated, has had dozens of prisoner civil actions or appeals dismissed on the grounds
10 that they were frivolous, malicious, or failed to state a claim upon which relief may be
11 granted. *See In re Steven Bonilla*, 2012 WL 216401, at *1 (N.D. Cal. Jan. 24, 2012) (noting
12 Plaintiff’s litigation history in the Northern District of California, including the dismissal
13 of 34 pro se civil rights actions between June 1 and October 31, 2011 alone, which were
14 dismissed “because the allegations in [his] complaints d[id] not state a claim for relief
15 under § 1983.”); *id.* at *3 (“The following five actions are DISMISSED without prejudice
16 and without leave to amend for failure to state a claim upon which relief may be granted:
17 *Bonilla v. Superior Court of Alameda County*, C 11-6306; *Bonilla v. Alameda County*
18 *District Attorney’s Office*, C 11-6307; *Bonilla v. California Supreme Court*, C 12-0026;
19 *Bonilla v. Cullen*, C 12-0027; *Bonilla v. California Supreme Court*, C 12-0206.”); *id.* at *3
20 n.1 (“The Court recently informed Plaintiff that, in accordance with 28 U.S.C. § 1915(g),
21 he no longer qualifies to proceed in forma pauperis in any civil rights action.”) (citing *In*
22 *re Steven Bonilla*, Nos. C11-3180, et seq. CW (PR), Order of Dismissal at 6:23–7:19)).

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26 ³ *See Kim v. Allison*, 87 F.4th 994, 998 n.3 (9th Cir. 2023) (citing *United States ex rel. Robinson Rancheria*
27 *Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (noting courts “may take notice of
28 proceedings in other courts, both within and without the federal judicial system, if those proceedings have
a direct relation to matters at issue”); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (noting
that courts may take judicial notice of undisputed “matters of public record”)).

