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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

9 KEVIN COE,

10 Petitioner,

11 v.

12 MARK STRONG,

13 Respondent.

CASE NO. C13-6088 RJB-JRC

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DENYING APPLICATION TO  
PROCEED IN FORMA PAUPERIS

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15 This matter comes before the court on the Report and Recommendation to Deny In  
16 Forma Pauperis Status. Dkt. 3. The court has considered the relevant documents and the  
17 remainder of the record herein.

18 On December 26, 2013 petitioner, a resident at the Special Commitment Center (SCC),  
19 filed an application to proceed in forma pauperis. Dkt. 1. On December 30, 2013, United States  
20 Magistrate Judge J. Richard Creatura issued a Report and Recommendation, recommending that  
21 the Court deny the application to proceed in forma pauperis because petitioner has sufficient  
22 funds to pay the \$5 filing fee in this case. Dkt. 3. Petitioner's application shows that he receives  
23 approximately \$254.17 every month into his SCC account. Dkt. 1.

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ORDER ADOPTING REPORT AND  
RECOMMENDATION AND DENYING  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS- 1

1 DISCUSSION AND CONCLUSION

2 The district court may permit indigent litigants to proceed *in forma pauperis* upon  
3 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has  
4 broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314  
5 F.2d 598 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963).

6 It appears that the petitioner has the cash and bank account funds to pay the \$5 filing fee  
7 in this case. Petitioner has made a choice to file this civil action. While the costs of this action  
8 may place a burden on his resources, petitioner appears to have sufficient funds to avail himself  
9 of his legal remedies by filing this action. Accordingly, the court should adopt the Report and  
10 Recommendation and deny petitioner's motion to proceed *in forma pauperis*. Before the court  
11 dismisses this case, however, petitioner should have the opportunity to pay the filing fee.

12 Therefore, it is hereby **ORDERED** that the Report and Recommendation to IFP  
13 Application (Dkt. 3) is **ADOPTED**. Petitioner's application to Proceed In Forma Pauperis (Dkt.  
14 1) is **DENIED**. If petitioner desires to proceed with this civil action, he shall pay the \$5 filing  
15 fee to the Court Clerk, not later than February 12, 2014. If petitioner fails to timely submit the  
16 filing fee, the Clerk is directed to dismiss this case without prejudice. The Clerk is directed to  
17 send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at  
18 said party's last known address.

19 Dated this 22<sup>nd</sup> day of January, 2014.

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21 ROBERT J. BRYAN  
22 United States District Judge  
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