

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Steven Wayne Bonilla v. Alameda County, Prosecutors for Good
Fellow and John Whitson**

Bonilla · No. 25-cv-02583-RBM-VET · Decided January 28, 2026

OPINION

Bonilla

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 SOUTHERN DISTRICT OF CALIFORNIA

9 10 STEVEN WAYNE BONILLA, Case No.: 25-cv-02583-RBM-VET

CDCR #J-48500,

11

ORDER DISMISSING CIVIL

Plaintiff,

12 ACTION FOR FAILURE TO PAY

vs. FILING FEE REQUIRED BY

13 28 U.S.C. § 1914(a) 14

ALAMEDA COUNTY, PROSECUTORS

15

FOR GOOD FELLOW and JOHN

16 WHITSON,

17 Defendants. 18

19 20 Plaintiff Steven Wayne Bonilla (“Plaintiff”), proceeding pro se and currently 21
incarcerated at California Medical Facility, has filed a civil rights Complaint pursuant to 22 42
U.S.C. § 1983. (Doc. 1.) Plaintiff has not filed a motion to proceed in forma pauperis 23 (“IFP”)
in this matter, nor has he paid the initial civil filing fee required by 28 U.S.C. 24 § 1914(a). For
the reasons explained below, the Court DISMISSES the case.

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

26 All parties instituting any civil action, suit or proceeding in a district court of the 27 United
States, except an application for writ of habeas corpus, must pay a filing fee of 28 \$405, consisting
of a \$350 statutory fee plus an additional administrative fee of \$55, 1 although the administrative
fee does not apply to persons granted leave to proceed IFP.

2 See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee

3 Schedule, § 14 (eff. Dec. 1, 2023)). The action may proceed despite a plaintiff's failure to 4
prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. 5 § 1915(a).
See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); cf. *Hymas v. 6 U.S. Dep't of the*
Interior, 73 F.4th 763, 765 (9th Cir. 2023) (“[W]here [an] IFP application 7 is denied altogether,
Plaintiff's case [cannot] proceed unless and until the fee[s] [a]re 8 paid.”). 9 The Prison Litigation
Reform Act (“PLRA”) also requires prisoners to submit a 10 certified copy of their trust fund
account statement, or an institutional equivalent) for the 11 6-month period immediately preceding
the filing of the complaint. See 28 U.S.C. 12 § 1915(a)(2); *Andrews v. King*, 398 F.3d 1113, 1119
(9th Cir. 2005). “While the previous 13 version of the IFP statute granted courts the authority to
waive fees for any person ‘unable 14 to pay[,]’ . . . the PLRA amended the IFP statute to include a
carve-out for prisoners: under 15 the current version of the IFP statute, ‘if a prisoner brings a civil
action or files an appeal 16 in forma pauperis, the prisoner shall be required to pay the full amount
of a filing fee.’” 17 *Hymas*, 73 F.4th at 767 (quoting 28 U.S.C. § 1915(b)(1)). Section 1915(b)
“provides a 18 structured timeline for collecting this fee.” *Id.* (citing 28 U.S.C. § 1915(b)(1)–(2)).
19 Plaintiff has not paid the \$405 filing and administrative fee required. He has also 20 failed to
file a properly supported motion to proceed IFP. See *Escobedo*, 787 F.3d at 1234. 21 Therefore,
his case cannot continue. See 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

22 II. LEAVE TO PROCEED IFP

23 Even if the Court granted Plaintiff leave to file a motion to proceed IFP, however, 24 he is not
entitled to that privilege for the reasons set forth below. 25 A. Standard of Review 26 “All
persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa Cnty. 27 Sheriff's Office*,
657 F.3d 890, 892 (9th Cir. 2011). Prisoners, like Plaintiff, however, “face 28 an additional
hurdle.” *Id.* In addition to requiring prisoners to “pay the full amount of a 1 filing fee” in
installments for the suits or appeals they launch, see *Bruce v. Samuels*, 577 2 U.S. 82, 85 (2016)
(citing 28 U.S.C. § 1915(b)(1)–(2)). The PLRA also amended § 1915 3 to preclude the privilege to
proceed IFP: 4 . . . if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained
in any facility, brought an action or appeal in a court of the United 5 States that was dismissed on
the grounds that it is frivolous, malicious, or fails 6 to state a claim upon which relief can be
granted, unless the prisoner is under imminent danger of serious physical injury. 7 8 28 U.S.C. §
1915(g). This subdivision is commonly known as the “PLRA's ‘three strikes’ 9 rule.” *Washington*
v. Los Angeles Cnty. Sheriff's Dep't, 833 F.3d 1048, 1054 (9th Cir. 10 2016). “Pursuant to §
1915(g), a prisoner with three strikes or more cannot proceed IFP.” 11 *Andrews*, 398 F.3d at 1116
n.1. The PLRA furthers “the congressional goal of reducing 12 frivolous prisoner litigation in
federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th
13 Cir. 1997).

14 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner, which 15 were
dismissed on the ground that they were frivolous, malicious, or failed to state a claim,” 16
Andrews, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the district court 17 styles

such dismissal as a denial of the prisoner's application to file the action without 18 prepayment of the full filing fee." *O'Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008). 19 When courts "review a dismissal to determine whether it counts as a strike, the style of the 20 dismissal or the procedural posture is immaterial. Instead, the central question is whether 21 the dismissal 'rang the PLRA bells of frivolous, malicious, or failure to state a claim.'" *El-Shaddai v. Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738 F.3d 607, 615 (4th Cir. 2013)). 24 Once a prisoner has accumulated three strikes, he is prohibited by § 1915(g) from 25 pursuing any other IFP action in federal court unless he can show he is facing "imminent 26 danger of serious physical injury." See 28 U.S.C. § 1915(g); *Cervantes*, 493 F.3d at 1051– 27 52 (noting § 1915(g)'s exception for IFP complaints which "make[] a plausible allegation 28 that the prisoner faced 'imminent danger of serious physical injury' at the time of filing.") 1 In addition to being "imminent," that danger must also be "both fairly traceable to unlawful 2 conduct alleged in [the] complaint and redressable by the court." *Ray v. Lara*, 31 F.4th 3 692, 701 (9th Cir. 2022). 4 B. Discussion 5 The Court has reviewed Plaintiff's Complaint and finds it does not contain sufficient 6 "plausible allegations" to suggest that he "faced 'imminent danger of serious physical 7 injury' at the time of filing." *Cervantes*, 493 F.3d at 1055 (quoting 28 U.S.C. § 1915(g)). 8 Rather, Plaintiff alleges that his arrest warrant was obtained by false information, there was 9 no federal grand jury subpoena for the evidence presented in his state criminal trial in the 10 Alameda County Superior Court, and that he is the victim of a discriminatory criminal 11 prosecution. (See Doc. 1 at 1–4.) He seeks to be released from custody. (*Id.* at 4.) 12 Thus, while Plaintiff has not moved to proceed IFP in this case; it would be futile 13 for him to do so. Defendants typically carry the initial burden to produce evidence 14 demonstrating a prisoner is not entitled to proceed IFP. *Andrews*, 398 F.3d at 1119. 15 However, "in some instances, the district court docket may be sufficient to show that [] 16 prior dismissal[s] satisf[y] at least one of the criteria under § 1915(g)" and therefore count 17 as strikes against him. *Id.* at 1120. That is true here. Based on the dockets of many court 18 proceedings available on PACER,¹ this Court finds that Plaintiff Steven Wayne Bonilla, 19 identified as CDCR #J-48500, while incarcerated, has had dozens of prisoner civil actions 20 or appeals dismissed on the grounds that they were frivolous, malicious, or failed to state 21 a claim upon which relief may be granted. See *In re Steven Bonilla*, 2012 WL 216401, at 22 *1 (N.D. Cal. Jan. 24, 2012) (noting Plaintiff's litigation history in the Northern District of 23 24 25 1 See *Kim v. Allison*, 87 F.4th 994, 998 n.3 (9th Cir. 2023) (citing *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) 26 (noting courts "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"); see 27 also *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (noting that courts may 28 take judicial notice of undisputed "matters of public record")). 1 California, including the dismissal of 34 pro se civil rights actions between June 1 and 2 October 31, 2011, alone, which were dismissed "because the allegations in [his] complaints

3 d[id] not state a claim for relief under § 1983.”); id. at *3 (“The following five actions are 4 DISMISSED without prejudice and without leave to amend for failure to state a claim upon 5 which relief may be granted: Bonilla v. Superior Court of Alameda County, C 11-6306; 6 Bonilla v. Alameda County District Attorney’s Office, C 11-6307; Bonilla v. California 7 Supreme Court, C 12-0026; Bonilla v. Cullen, C 12-0027; Bonilla v. California Supreme 8 Court, C 12-0206.”); id. at *3 n.1 (“The Court recently informed Plaintiff that, in 9 accordance with 28 U.S.C. § 1915(g), he no longer qualifies to proceed in forma pauperis 10 in any civil rights action.”) (citing In re Steven Bonilla, Nos. C11-3180, et seq. CW (PR), 11 Order of Dismissal at 6:23–7:19)). 12 Accordingly, because Plaintiff has, while incarcerated, accumulated far more than 13 the three strikes permitted by § 1915(g), and he fails to make any plausible allegation that 14 he faced imminent danger of serious physical injury at the time he filed this case, he is not 15 entitled to the privilege of proceeding IFP. See Cervantes, 493 F.3d at 1055; Rodriguez v. 16 Cook, 169 F.3d 1176, 1180 (9th Cir. 1999) (noting that 28 U.S.C. § 1915(g) “does not 17 prevent all prisoners from accessing the courts; it only precludes prisoners with a history 18 of abusing the legal system from continuing to abuse it while enjoying IFP status”). When 19 a prisoner-litigant “has accumulated three prior dismissals on statutorily enumerated 20 grounds[,] . . . a court may not afford him in forma pauperis status with respect to his 21 additional civil actions.” Coleman v. Tollefson, 575 U.S. 532, 534 (2015). This is because 22 “court permission to proceed IFP is itself a matter of privilege and not right.” Franklin v. 23 Murphy, 745 F.2d 1221, 1231 (9th Cir. 1984).

24 III. CONCLUSION

25 Accordingly, the Court: 26 (1) DISMISSES this case based on Plaintiff’s failure to pay the civil filing fee 27 required by 28 U.S.C. § 1914(a); and 28 (2) DIRECTS the Clerk of the Court to enter a final judgment of dismissal, close 1 file, and accept no further documents for filing in this matter except a timely Notice of 2 || Appeal, which the Court CERTIFIES would not be taken in good faith pursuant to 28 3 ||U.S.C. § 1915(a)(3). 4 IT IS SO ORDERED. 5 || Dated: January 28, 2026
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6 HON. RUTH BERMUDEZ MONTENEGRO

7 UNITED STATES DISTRICT JUDGE

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