



(PC) Hubbard v. Seng, et al

2015 | Cited 0 times | E.D. California | January 22, 2015

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1 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

ZANE HUBBARD,

Plaintiff, v. MICHAEL J. SENG, et al.,

Defendants.

No. 2:15-cv-0025 AC P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. However, it appears that plaintiff is statutorily precluded from proceeding in forma pauperis, because he has:

on 3 or more prior occasions, while incarcerated . . . , brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(g). Some of the prior “strike” cases are: Hubbard v. Flores, 1:13-cv-1056 AWI BAM, ECF Nos. 9 & 10 (E.D. Cal., Jun. 30, 2014) (order and judgment dismissing for failure to state a cognizable claim; the current case was filed after plaintiff’s time to appeal Flores expired on July 30, 2014); Hubbard v. Gipson, 1:14-cv-0275 LJO MJS, ECF Nos. 13 & 14 (E.D. Cal., Nov. 18, 2014) (order and judgment dismissing with prejudice for failure to state a claim; the current case 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

2 was filed after plaintiff’s time to appeal Gips on expired on December 18, 2014); Hubbard v. Lua, 1:14-cv-0351 LJO SAB, ECF Nos. 5 & 6 (E.D. Cal., May 6, 2014) (order and judgment dismissing with prejudice for failure to state a claim; the current case was filed after plaintiff’s time to appeal Lua expired on June 5, 2014). Accordingly, IT IS HEREBY ORDERED that: 1. Plaintiff’s application to proceed in forma pauperis is DENIED, and plaintiff is barred from proceeding in forma pauperis in this action pursuant to the three strikes provision of 28 U.S.C. § 1915(g); 2. Plaintiff is directed to pay the filing fee in full within twenty-eight days of the date of this order; and 3. Absent timely payment of the filing fee, this case will be dismissed. 1 DATED: January 21, 2015



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1 The alleged violations took place in Fresno and Kings Counties, which are part of the Fresno Division of the United States District Court for the Eastern District of California. See Local Rule 120(d). Accordingly, if plaintiff pays the filing fee, the court will consider transferring this action to the Fresno Division of the court pursuant to E.D. Cal. R. 120(f) (a civil action which has not been commenced in the proper division of a court may, on the court's own motion, be transferred to the proper division of the court).

