

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

11 STEVEN RAMON TUGGLE,  
12 Plaintiff,  
13 vs.  
14 E. NORIEGA, et al.,  
15 Defendants.

1:13-cv-00506-LJO-GSA-PC  
ORDER DISMISSING ACTION UNDER  
28 U.S.C. § 1915(g), WITHOUT  
PREJUDICE TO REFILING WITH  
SUBMISSION OF \$350.00 FILING FEE  
IN FULL  
(Doc. 1.)

ORDER FOR CLERK TO CLOSE CASE

17 Steven Ramon Tuggle ("Plaintiff") is a state prisoner proceeding pro se with this civil  
18 rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this  
19 action on April 8, 2013. (Doc. 1.) Plaintiff has not paid the filing fee or submitted an  
20 application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

21 28 U.S.C. § 1915 governs proceedings in forma pauperis. Section 1915(g) provides that  
22 "[i]n no event shall a prisoner bring a civil action under this section if the prisoner has, on 3 or  
23 more prior occasions, while incarcerated or detained in any facility, brought an action or appeal  
24 in a court of the United States that was dismissed on the grounds that it is frivolous, malicious,  
25 or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent  
26 danger of serious physical injury." A review of the actions filed by Plaintiff reveals that  
27 Plaintiff is subject to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis

1 unless Plaintiff was, at the time the complaint was filed, under imminent danger of serious  
2 physical injury.<sup>1</sup>

3 The Court has reviewed Plaintiff's Complaint and finds that Plaintiff does not meet the  
4 imminent danger exception.<sup>2</sup> Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).  
5 Plaintiff alleges in the Complaint that someone forged documents in Plaintiff's name refusing  
6 x-rays and physical therapy, and he waited eleven weeks for x-rays.<sup>3</sup> Plaintiff may not proceed  
7 in forma pauperis in this action, and must submit the appropriate filing fee in order to proceed  
8 with this action. Therefore, this action shall be dismissed, without prejudice to refile with the  
9 submission of the \$350.00 filing fee in full.

10 Based on the foregoing, it is HEREBY ORDERED that:

11 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is precluded from proceeding in forma  
12 pauperis in this action;

13 2. This action is DISMISSED, without prejudice to refile with the submission of  
14 the \$350.00 filing fee in full; and

15 3. The Clerk is directed to CLOSE this case.

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19 IT IS SO ORDERED.

20 Dated: April 10, 2013

21 /s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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23 <sup>1</sup>Among the dismissals suffered by Plaintiff that count as strikes under § 1915(g) are case numbers 3:06-  
24 cv-05830-MHP (N.D.Cal.) Tuggle v. Mailroom Supervisor, et al. (dismissed on 03/29/2007 for failure to state a  
25 claim); 1:09-cv-01562-AWI-SMS-PC (E.D. Cal.) Tuggle v. Cano, et al. (dismissed on 07/12/2010 for failure to  
26 state a claim); and 1:10-cv-01420-LJO-BAM-PC (E.D. Cal.) Tuggle v. Olsen, et al. (dismissed on 03/16/2012 for  
27 failure to state a claim).

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29 <sup>2</sup>The Court expresses no opinion on the merits of Plaintiff's claims.

<sup>3</sup>The Complaint is devoid of any showing that Plaintiff was under imminent danger of serious physical  
injury at the time he filed the Complaint. Id.