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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JAWAN N. TARQUINII,

12 Plaintiff,

13 vs.

14 THOMAS W. HARKER, ACTING
15 SECRETARY, US DEPARTMENT OF
16 THE NAVY,

17 Defendant.
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Case No.: 3:21-cv-0350-CAB-WVG

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEE REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

20 Plaintiff Jawan N. Tarquini ("Plaintiff"), proceeding *pro se*, has filed a civil action.
21 (ECF No. 1).

22 **I. Failure to Pay Filing Fee or Request *In Forma Pauperis* ("IFP") Status**

23 All parties instituting any civil action, suit or proceeding in a district court of the
24 United States, except an application for writ of habeas corpus, must pay a filing fee of

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1 \$402. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff’s failure to
2 prepay the entire fee only if he is granted leave to proceed *in forma pauperis* (“IFP”)
3 pursuant to 28 U.S.C. Section 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051
4 (9th Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the
5 Plaintiff is a prisoner, and even if he is granted leave to commence his suit IFP, he
6 remains obligated to pay the entire filing fee in “increments,” *see Williams v. Paramo*,
7 775 F.3d 1182, 1185 (9th Cir. 2015), regardless of whether his case is ultimately
8 dismissed. *See* 28 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847
9 (9th Cir. 2002).

10 Plaintiff has not prepaid the \$402 in filing and administrative fees required to
11 commence this civil action, nor has she submitted a properly supported Motion to
12 Proceed IFP pursuant to 28 U.S.C. § 1915(a). Therefore, her case cannot yet proceed.
13 *See* 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

14 **II. Conclusion and Order**

15 For the reasons set forth above, the Court hereby:

16 (1) **DISMISSES** this action *sua sponte* without prejudice for failure to pay the
17 \$402 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to
18 28 U.S.C. §§ 1914(a) and 1915(a), and S.D. Cal. Civ.LR 3.2; and

19 (2) **GRANTS** Plaintiff **forty-five (45)** days leave from the date this Order is
20 filed to: (a) prepay the entire \$402 civil filing and administrative fee in full; or (b)
21 complete and file a Motion to Proceed IFP. *See* 28 U.S.C. § 1915(a)(2); S.D. Cal. CivLR
22 3.2.

23 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
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26 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional
27 administrative fee of \$52. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of
28 Fees, District Court Misc. Fee Schedule, § 14 (eff. Dec. 1, 2020)). The additional \$52
administrative fee does not apply to persons granted leave to proceed IFP. *Id.*

1 with this Court's approved form "Motion and Declaration in Support of Motion to
2 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$402 civil filing fee or
3 complete and submit the enclosed Motion to Proceed IFP within 45 days, this action will
4 remain dismissed without prejudice based on Plaintiff's failure to satisfy the fee
5 requirements of 28 U.S.C. Section 1914(a) and without further Order of the Court.

6 **IT IS SO ORDERED.**

7 Dated: February 26, 2021



Hon. Cathy Ann Bencivengo
United States District Judge