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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

JOSEPH DANNY PROPHET,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

NO. 1:09 CV 01066 OWW MJS PC

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS

Document # 5

ORDER DENYING PLAINTIFF
LEAVE TO PROCEED IN FORMA
PAUPERIS AND DIRECTING
PLAINTIFF TO PAY THE FILING
FEE

Plaintiff is a state prisoner proceeding pro se in this civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 13,2010, [findings and recommendations](#) were entered, recommending that plaintiff's application to proceed in forma pauperis be denied pursuant to 28 U.S.C. § 1915(g). Plaintiff has suffered three dismissals on the ground of frivolousness or failure to state a claim upon which relief can be granted. The Magistrate Judge found that plaintiff failed to allege facts that satisfied the imminent danger standard set forth in § 1915(g). Plaintiff was provided an opportunity to file objections within thirty days. On May 19, 2010, Plaintiff filed [objections](#) to the findings and recommendations.

In his objections, plaintiff continues the line of argument he made earlier that he is

1 indigent and can not afford the filing fee. Plaintiff attaches as exhibits to his objections copies of
2 inmate grievances related to the allegations in the complaint. The complaint in this action alleges
3 that plaintiff was denied adequate access to the law library. Plaintiff has not made any argument,
4 nor made any allegation in the complaint that he is in imminent danger of physical injury. The
5 application to proceed in forma pauperis should therefore be denied pursuant to 28 U.S.C. §
6 1915(g).

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 305, this
8 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
9 court finds the findings and recommendations to be supported by the record and proper analysis.

10 Accordingly, THE COURT HEREBY ORDERS that:

11 1. The Findings and Recommendations issued by the Magistrate Judge on April 13,
12 2010, are adopted in full; and

13 2. Plaintiff's application to proceed in forma pauperis status is denied pursuant to 28
14 U.S.C. § 1915(g).

15 3. Plaintiff is directed to submit, within thirty days of the date of service of this order,
16 the \$350 filing fee for this case. Plaintiff's failure to do so will result in dismissal of this action
17 pursuant to Local Rule 110 for failure to obey a court order.

18
19 IT IS SO ORDERED.

20 **Dated:** May 28, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE