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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOWELL FINLEY,

Plaintiff,

v.

A, D, OLIVE, et al.,

Defendants.

CASE NO. 1:10-cv-00778-LJO-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANTS’ MOTION TO REVOKE
PLAINTIFF’S IN FORMA PAUPERIS STATUS

(ECF Nos. 16, 24, 25)

ORDER REVOKING PLAINTIFF’S IN
FORMA PAUPERIS STATUS

THIRTY DAY DEADLINE

Plaintiff Jowell Finley (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the [complaint](#) in this action on May 3, 2010, and Plaintiff’s [application to proceed in forma pauperis](#) was granted on May 5, 2010. (ECF No. 4.) 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 May 26, 2011 , the Magistrate Judge issued [findings and recommendations](#) recommending that Defendants’ motion to revoke Plaintiff’s in forma pauperis status be granted. The undersigned has considered Plaintiff’s [objections](#), filed on June 16, 2011.

Plaintiff objects that he was in imminent danger at the time that he filed this action. Plaintiff’s brought this action alleging that Defendants failed to protect him on November 12, 2007, after his cellmate informed Defendants that he was going to hurt Plaintiff unless they moved him to a different cell. Later that same day Plaintiff was attacked by his cellmate. Plaintiff’s complaint

1 fails to allege facts to show that he was in imminent danger on May 3, 2010, more than two years
2 after the events alleged in the complaint occurred.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
4 de novo review of this case. Having carefully reviewed the entire file, the undersigned finds the
5 findings and recommendations to be supported by the record and by proper analysis.

6 Accordingly it is HEREBY ORDERED that:

- 7 1. Defendants' motion to revoke Plaintiff's in forma pauperis status filed February 22,
8 2011, is GRANTED;
- 9 2. The order granting Plaintiff leave to proceed in forma pauperis in this action and
10 directing collection of the filing fee from his trust account is VACATED;
- 11 3. Plaintiff shall pay the \$350.00 filing fee in full within **thirty (30) days** from the date
12 of service of this order or this action will be dismissed, without prejudice; and
- 13 4. A copy of this order shall be served on (1) the Director of the California Department
14 of Corrections and Rehabilitation via the Court's electronic case filing system
15 (CM/ECF), and (2) the Financial Department, U.S. District Court, Eastern District
16 of California, Fresno Division.

17 IT IS SO ORDERED.

18 **Dated: June 20, 2011**

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