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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRYAN E. RANSOM,

Plaintiff,

v.

A. K. SCRIBNER, et al.,

Defendants.

CASE NO. 1:06-CV-00208-LJO-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL AND
DENYING DEFENDANTS' MOTION TO
DISMISS

(DOCS. 52, 56)

Plaintiff Bryan E. Ransom ("Plaintiff") is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's complaint against Defendants Scribner and Duncan for violation of the Eighth Amendment. 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 February 4, 2010, Defendants filed a [motion to dismiss](#), seeking to revoke Plaintiff's in forma pauperis status pursuant to 28 U.S.C. § 1915(g), for accruing three cases dismissed for failure to state a claim. On August 3, 2010, the Magistrate Judge filed a [Findings and Recommendations](#) herein which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within thirty days. Plaintiff filed an [Objection](#) to the Findings and Recommendations on August 20, 2010. Plaintiff also filed an accompanying request for [judicial notice](#).

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

1 Plaintiff contends that he has not accrued three strikes pursuant to 28 U.S.C. § 1915(g).
2 Plaintiff contends that two of his dismissed cases, *Ransom v. Chief Williams, et al.*, Case No. 96-CV-
3 8203-MRP (C.D. Cal.) (dismissed December 10, 1996), and *Ransom v. Doe*, Case No. 96-CV-8204-
4 RSWL (C.D. Cal.) (dismissed December 6, 1996), were dismissed for lack of jurisdiction, and not
5 for failure to state a claim. These two cases were dismissed pursuant to the favorable termination
6 rule of *Heck v. Humphrey*, 512 U.S. 477 (1994). As stated previously by the Magistrate Judge in the
7 Findings and Recommendations, “Plaintiff’s claims were either premature because Plaintiff had not
8 achieved a favorable termination, or Plaintiff’s claims were non-cognizable because Plaintiff failed
9 to establish the required predicates for stating a claim. In either situation, Plaintiff fails to state a
10 claim.” (Findings and Recommendations 3:18-21, Doc. 56.) Plaintiff thus accrued three strikes.
11 However, Plaintiff qualifies for the imminent danger exception to § 1915(g), and may proceed in
12 forma pauperis in this action.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The [Findings and Recommendations](#), filed August 3, 2010 is adopted in full; and
- 15 2. Defendants’ [motion to dismiss](#), filed February 4, 2010, is denied.

16 IT IS SO ORDERED.

17 Dated: September 9, 2010

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