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

RONALD L. ADAMS,

Plaintiff,

vs.

JAMES TILTON, et al.,

Defendants.

1:07-cv-00791-AWI-GSA-PC

ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS  
(Doc. 39.)

ORDER GRANTING DEFENDANTS'  
MOTION TO REVOKE PLAINTIFF'S  
IN FORMA PAUPERIS STATUS AND  
GRANTING DEFENDANTS' REQUEST  
FOR EXTENSION OF TIME TO RESPOND  
TO FOURTH AMENDED COMPLAINT  
(Doc. 27.)

ORDER REVOKING PLAINTIFF'S IN  
FORMA PAUPERIS STATUS

ORDER VACATING ORDER GRANTING  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS  
(Doc. 9.)

ORDER VACATING ORDER DIRECTING  
CDCR TO COLLECT FILING FEE PAYMENTS  
FOR THIS ACTION  
(Doc. 10.)

ORDER FOR CLERK TO SERVE THIS  
ORDER ON DIRECTOR OF CDCR AND  
COURT'S FINANCIAL DEPARTMENT

ORDER REQUIRING PLAINTIFF TO  
PAY \$350.00 FILING FEE IN FULL WITHIN  
THIRTY DAYS, OR CASE WILL BE  
DISMISSED

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1 Ronald L. Adams ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action  
2 pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant  
3 to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

4 On April 22, 2011, [Findings and Recommendations](#) were entered, recommending that  
5 Defendants' motion to revoke Plaintiff's in forma pauperis status pursuant to 28 U.S.C. § 1915(g)  
6 and Defendants' request for an extension of time to respond to the Fourth Amended Complaint be  
7 granted. (Doc. 39.) On August 11, 2011, Plaintiff filed [objections](#) to the Findings and  
8 Recommendations. (Doc. 43.)

9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this  
10 Court has conducted a de novo review of this case. Having carefully reviewed the entire file,  
11 including Plaintiff's objections, the Court finds the Findings and Recommendations to be supported  
12 by the record and proper analysis.

13 Plaintiff objects to the Findings and Recommendations on the ground that Defendants have  
14 not submitted sufficient evidence demonstrating that the dismissal of case Adams v. Marshall, Case  
15 No. 91-cv-04224 RFP (N. D. Cal.) counts as a "strike" against him under 28 U.S.C. § 1915(g).  
16 Plaintiff argues that Defendants have not proven that he filed the Amended Complaint on March 3,  
17 1992 in Adams v. Marshall, because the entry on the Northern District' Court's docket states that the  
18 Amended Complaint was filed by Ronald D. Adams, and Plaintiff's middle initial is L, not D.  
19 Plaintiff claims, in an unverified statement, that he never filed an Amended Complaint on March 3,  
20 1992. Plaintiff's argument fails because the Court based its findings in the Findings and  
21 Recommendations on Defendants' evidence that the plaintiff in Adams v. Marshall is the same  
22 person as Plaintiff in the present action, and the case was dismissed for failure to state a claim.<sup>1</sup>  
23 Plaintiff does not dispute that he was the plaintiff in Adams v. Marshall, and Plaintiff has not

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24  
25 <sup>1</sup> Section 1915(g) provides that "[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner  
26 has, on 3 or more prior occasions, while incarcerated or detained in any facility, *brought an action* or appeal in a court of  
27 the United States *that was dismissed* on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief  
28 may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g) (emphasis  
added).

1 submitted any admissible evidence that the incorrect middle initial in the docket entry by the  
2 Northern District's Clerk in Adams v. Marshall is more than a typographical error. Therefore,  
3 Plaintiff has not met his burden to persuade the Court that § 1915(g) does not apply.

4 Finally, the court has independently reviewed the opinions that were used as strikes in Adams  
5 v. Carcy, 2:07-1878 JAM KJM P. After reviewing the court's dismissal orders in each of the earlier  
6 cases, the court independently finds that Plaintiff has obtained three strikes.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The Findings and Recommendations issued by the Magistrate Judge on April  
9 22, 2011, are ADOPTED in full;
- 10 2. Defendants' Motion to revoke Plaintiff's in forma pauperis status and Request  
11 for extension of time are GRANTED;
- 12 3. Pursuant to 28 U.S.C. § 1915(g), Plaintiff's in forma pauperis status is  
13 REVOKED;
- 14 4. The Court's order of June 5, 2007, which granted Plaintiff's application to  
15 proceed in forma pauperis, is VACATED;
- 16 5. The Court's order of June 5, 2007, which directed the CDCR to make  
17 payments to the Court from Plaintiff's prison trust account for payment of the  
18 filing fee for this action is VACATED;
- 19 6. Plaintiff is REQUIRED to pay the \$350.00 filing fee in full within thirty (30)  
20 days of the date of service of this order;
- 21 7. The Clerk of Court is DIRECTED to serve a copy of this order on:
  - 22 (1) the Director of the CDCR; and
  - 23 (2) the Financial Department, U.S. District Court, Eastern District of  
24 California, Fresno Division;
- 25 8. Defendants are GRANTED an extension of time until thirty days after the date  
26 Plaintiff pays the filing fee for this action, in which to respond to the Fourth  
27 Amended Complaint; and

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9. If Plaintiff fails to pay the \$350.00 filing fee pursuant to this order, this action will be dismissed without prejudice, without further notice.

IT IS SO ORDERED.

Dated: September 29, 2011

  
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CHIEF UNITED STATES DISTRICT JUDGE