

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

WILLIAM O. ROBINSON,

Plaintiff, CV F 07 1187 LJO WMW PC

## vs. FINDINGS AND RECOMMENDATION

M. ZOHER, et al.,

DefendantSt.

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1993. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 1915(b)(1). Plaintiff has submitted request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

Plaintiff, an inmate in the custody of the California Department of Corrections and Rehabilitation at Corcoran State Prison, brings this civil rights action against defendant correctional officials employed by the CDCR at Corcoran State Prison. Plaintiff claims that the treatment he received for an injury on September 6, 2006, was inadequate.

The Prison Litigation Reform Act provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in a facility, brought an action or appeal in a court of the United States that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon which relief

1 may be granted, unless the prisoner is under imminent danger of serious injury.”

2 This plaintiff has, on 3 prior occasions, brought civil actions challenging the conditions of  
3 his confinement. All three action were dismissed as frivolous, or for failure to state a claim upon  
4 which relief can be granted. Robinson v. Garcia, CV F 05 1034 OWW SMS PC; Robinson v.  
5 Joh Doe II, CV F 05 1054 OWW LJO PC; Robinson v. Scribner, CV F 05 1548 OWW LJO PC.  
6 Plaintiff is therefore not entitled to proceed in forma pauperis unless he alleges facts indicating  
7 that he is in imminent danger of serious physical injury. Plaintiff alleges no such facts in this  
8 case.

9 On July 16, 2008, Plaintiff an order to show cause was issued,, directing Plaintiff to show  
10 cause why his in forma pauperis status should not be revoked and Plaintiff be directed to pay the  
11 filing fee in full. Plaintiff has not shown cause why his application to proceed in forma pauperis  
12 should be revoked, and Plaintiff be directed to pay the filing fee in full.

13 Accordingly, IT IS HEREBY RECOMMENDED that:

14 1. Plaintiff's application to proceed in forma pauperis be revoked pursuant to 28 U.S.C. §  
15 1915(g).

16 2. Plaintiff be directed to submit the \$350 filing fee, in full.

17 These findings and recommendations are submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days  
19 after being served with these findings and recommendations, any party may file written  
20 objections with the court and serve a copy on all parties. Such a document should be captioned  
21 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
22 shall be served and filed within ten days after service of the objections. The parties are advised  
23 that failure to file objections within the specified time waives all objections to the judge’s  
24 findings of fact. See Turner v. Duncan, 158 F.3d 449, 455 (9<sup>th</sup> Cir. 1998). Failure to file  
25 objections within the specified time may waive the right to appeal the District Court’s order.

Martinez v. Ylst, 951 F.2d 1153 (9<sup>th</sup> Cir. 1991).

IT IS SO ORDERED.

Dated: February 9, 2009

**/s/ William M. Wunderlich**  
UNITED STATES MAGISTRATE JUDGE