

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HARRY ZELIG,

Plaintiff,

v.

FELIX IGBINOSA, et al.,

Defendants.

CASE NO. 1:11-CV-01515-LJO-DLB PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING MOTION TO PROCEED
IN FORMA PAUPERIS BE DENIED

(DOC. 2)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

Plaintiff Harry Zelig (“Plaintiff”) is a California state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. On September 8, 2011, Plaintiff filed a motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Doc. 2.

A prisoner seeking to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 must submit an affidavit and a certified copy of his prison trust account statement for the six month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(a). The Court is authorized to grant the commencement of suit without prepayment of fees by a person who submits an affidavit and statement of assets that demonstrate the person is unable to pay the filing fee. *Id.*

Plaintiff filed an application to proceed in forma pauperis and provided a certified copy of his trust account statement for the six month period immediately preceding the filing of the complaint. Plaintiff’s average monthly balance is \$1512.49 and the average of Plaintiff’s monthly deposits is \$183.33. In addition, Plaintiff’s application indicates that he currently has \$771.59 in available balance. The Court therefore finds that Plaintiff has sufficient funds to pay

1 the filing fee in full and is ineligible to proceed in forma pauperis.

2 Accordingly, the Court HEREBY RECOMMENDS that

3 1) Plaintiff's motion to proceed in forma pauperis, filed September 9, 2011, be

4 DENIED; and

5 2) Plaintiff be ordered to submit the \$350.00 filing fee in full to the Court within

6 **twenty (20) days** from the date of service of the order resolving these Findings

7 and Recommendations.

8 These Findings and Recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14)**
10 **days** after being served with these Findings and Recommendations, Plaintiff may file written
11 objections with the Court. Such a document should be captioned "Objections to Magistrate
12 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within
13 the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951
14 F.2d 1153, 1156-57 (9th Cir. 1991).

15 IT IS SO ORDERED.

16 **Dated: September 21, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE