

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

STEWART MANAGO,)	CASE NO. 1:11-cv-02003-JLT PC
)	
Plaintiff,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS THAT
v.)	PLAINTIFF’S APPLICATION TO PROCEED
)	IN FORMA PAUPERIS BE DENIED
F. GONZALEZ, et al.,)	
)	(Doc. 5, 7, 8)
Defendants.)	
_____)	

Plaintiff Stewart Manago, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. On January 5, 2012, Plaintiff filed a motion to proceed in forma pauperis (“IFP”). (Doc. 5.)

On January 25, 2012, the Magistrate Judge issued Findings and Recommendations that the motion to proceed IFP be denied. (Doc. 7) The Magistrate Judge determined that Plaintiff has filed three prior actions that were dismissed as frivolous or for failing to state a claim upon which relief could be granted. Id. at 2. In addition, the Magistrate Judge noted that Plaintiff’s complaint did not demonstrate that he was in imminent danger of serious physical injury. Id. Though Plaintiff alleged that his ribs may have healed improperly, there was no allegation that this mal-healing placed him in imminent danger of physical harm. Id. at 3.

On February 3, 2012, Plaintiff filed his “motion for reconsideration” which the Court construes as his objections to the Findings and Recommendations. (Doc. 8) In the document,

1 Plaintiff cites only to his improperly healed ribs but impliedly admits that this medical condition
2 does not place him in imminent danger at this time. Id. at 1-2. However, he urges the Court not to
3 let the harm he has suffered to go unredressed. Id. at 3. The Findings and Recommendations
4 determine only whether Plaintiff will be permitted to proceed IFP not whether he is permitted to
5 pursue his current litigation. The fact that Plaintiff has filed three previous matters that were
6 frivolous or that failed to state a claim determines that he is no longer eligible to proceed IFP.
7 However, Plaintiff is free to proceed in this matter but he will have to do so at his own expense.

8 Therefore, in accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and Britt v. Simi
9 Valley United School Dist., 708 F.2d 452, 454 (9th Cir. 1983), this Court has conducted a *de novo*
10 review of the case. Having carefully reviewed the entire file, the Court finds that the findings and
11 recommendation are supported by the record and by proper analysis.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The findings and recommendations filed January 25, 2012, are **ADOPTED IN**
14 **FULL;**
- 15 2. The motion to proceed in forma pauperis is **DENIED;**
- 16 3. Plaintiff SHALL pay the filing fee within 14 days of the date of service of this order
17 or the matter SHALL be dismissed.

18 IT IS SO ORDERED.

19 Dated: March 10, 2012

20 
21 CHIEF UNITED STATES DISTRICT JUDGE
22
23
24
25
26
27
28