

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

JOHN FREDERICK WHEELER, ) NO. 1:12-cv-00541-AWI-JLT  
Plaintiff, ) ORDER RE: FINDINGS AND  
v. ) RECOMMENDATIONS  
UNITED STATES, et. al., ) (Doc. No. 4)  
Defendants. )

John Frederick Wheeler (“Plaintiff”) moves to proceed *in forma pauperis* with an action for violations of his civil rights. This issue was referred to a Magistrate Judge. On April 25, 2012, the Magistrate Judge filed findings and recommendations that Plaintiff’s motion to proceed *in forma pauperis* be denied and the complaint be dismissed without leave to amend. The Magistrate Judge determined Plaintiff was not entitled to proceed because he failed to state a claim upon which relief may be granted or allege a causal relationship between the defendants and the injury alleged.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 305, this Court has conducted a de novo review of the case. Having carefully reviewed the entire file, the Court finds the Magistrate Judge's recommendation that Plaintiff's *in forma pauperis* motion be denied to be supported by the record and proper analysis. However, the Court respectfully

declines to adopt the Magistrate Judge's recommendation of dismissal without leave to amend.

**Accordingly, IT IS HEREBY ORDERED:**

1. The Findings and Recommendations filed on April 25, 2012 are **ADOPTED IN PART**;
2. Plaintiff's motion to proceed *in forma pauperis* is **DENIED**; and
3. Plaintiff's complaint is **DISMISSED** with leave to amend. Plaintiff shall have leave to amend within 30 days of entry of this order.

IT IS SO ORDERED.

Dated: July 17, 2012

CHIEF UNITED STATES DISTRICT JUDGE