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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERIC C.R. K'NAPP,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

Case No. 1:13-cv-01044-AWI-MJS (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REVOKING
PLAINTIFF'S IN FORMA PAUPERIS
STATUS AND REQUIRING PAYMENT OF
FILING FEE IN FULL WITHIN TWENTY-
ONE DAYS**
(ECF No. 7)
TWENTY-ONE DAY DEADLINE

Plaintiff is a state prisoner proceeding pro se and in forma pauperis ("IFP") in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

On February 12, 2014, the Magistrate Judge issued Findings and Recommendations that Plaintiff's IFP status should be revoked because he accrued three or more strikes and was not under imminent danger of serious physical harm at the time this action was initiated, 28 U.S.C. § 1915(g), and that he be required to pay the \$400 filing fee in full within twenty-one days of adoption of the Findings and Recommendations.

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On March 3, 2014, Plaintiff filed Objections to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis. The Objections do not raise an issue of law or fact under the Findings and Recommendations and there is no need to modify the Findings and Recommendations based on the Objections.

Plaintiff's objection that the actions and appeals cited in the Findings and Recommendations are not strikes fails for the reasons stated by the Magistrate Judge. The Ninth Circuit has confirmed these strikes. See Knapp v. Hogan, 738 F.3d 1106, 1111 (9th Cir. 2013), citing 28 U.S.C. § 1915(g). The dismissals underlying these strikes were final before this action was filed.

His disagreement with Hogan is not a basis for objection.¹ Such argument, reflecting both documents included with his Objections of which he seeks judicial notice,² and claimed entitlement to equitable relief, is unavailing. The cases he cites in his Objections do not suggest otherwise.

His objection that he was in imminent danger of serious physical injury at the time the pleading was filed fails for the reasons stated in the Findings and Recommendations.

The Objections lack merit.

Accordingly, it is HEREBY ORDERED that:

1. The Court adopts the Findings and Recommendations filed on February 12, 2014 (ECF No. 7) in full,
2. Plaintiff's in forma pauperis status (ECF No. 3) is REVOKED,
3. Plaintiff shall PAY THE \$400 FILING FEE in full within twenty-one days of service of this Order, and

¹ The Court takes judicial notice of documents filed with the district court and included with the Objections. See Fed. R. Evid. 201(b), which provides that: "A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

² See n.1.

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4. If Plaintiff fails to pay the \$400 filing fee in full within twenty-one days of service of this Order, all pending motions shall be terminated and this action dismissed without prejudice.

IT IS SO ORDERED.

Dated: March 17, 2014



SENIOR DISTRICT JUDGE