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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,)	1:17-cv-0085-DAD-BAM
)	
Plaintiff,)	FINDINGS AND RECOMMENDATIONS
)	TO DENY MOTION FOR LEAVE TO
vs.)	PROCEED IN FORMA PAUPERIS
)	
CAROL L. CONEY, et al.,)	(ECF Nos. 1 and 3)
)	
Defendants.)	FOURTEEN (14) DAY OBJECTION
)	DEADLINE
)	

Plaintiff Matthew B. Cramer, a prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 19, 2017. Plaintiff seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. §1915. (Doc. 3).

Plaintiff is subject to 28 U.S.C. § 1915(g), which provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”

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1 The Court takes judicial notice of the following Eastern District of California cases:
2 *Cramer v. Schwarzenegger*, case number 1:08-cv-01310-GSA (dismissed April 24, 2009, for
3 failure to state a claim; no appeal filed); *Cramer v. Calif. Dep't of Justice*, 2:00-cv-02374-DFL-
4 DAD (dismissed Sept. 26, 2001, for failure to state a claim and frivolous; no appeal filed); and
5 *Cramer v. Ty Warner, Inc.*, 2:00-mc-00099-FCD-GGH (dismissed Jul. 26, 2001, for failure to
6 state a claim; no appeal filed). Accordingly, prior to the date he filed this action, Plaintiff had at
7 least three strikes under section 1915(g), and he is precluded from proceeding in forma pauperis
8 unless, at the time he filed suit, he was in imminent danger of serious physical injury. *Andrews*
9 *v. Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir. 2007).

10 The Court has reviewed the complaint filed in this action and it does not involve
11 imminent danger of serious physical injury to Plaintiff. *Andrews*, 493 F.3d at 1055-56. Rather,
12 Plaintiff's complaint concerns allegations against private actors, Visalia Rescue Mission and its
13 employees, for allegedly requiring that its homeless participants "attend Christian Ministry
14 Service" and sell donated items "(i.e. candy bars, beef jerky sticks, etc..." in exchange for
15 services.) (Doc. 22 at 25). Plaintiff claims that those policies violate various state and federal
16 laws against slavery and religious discrimination. Plaintiff is currently housed at the California
17 Correctional Institution in Tehachapi, California. These individuals do not appear to be housed
18 with Plaintiff at that institution, and there is no assertion that he is under imminent danger of
19 serious physical injury. (Doc. 1).

20 Accordingly, it is HEREBY RECOMMENDED that Plaintiff's motion to proceed in
21 forma pauperis be DENIED, and that Plaintiff be required to pay the \$400.00 filing fee in full
22 before proceeding in this action.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
25 days after being served with the findings and recommendations, any party may file written
26 objections with the Court and serve a copy on all parties. Such a document should be captioned
27 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
28 shall be served and filed within fourteen (14) days after service of the objections. The parties are

1 advised that failure to file objections within the specified time may result in the waiver of rights
2 on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*,
3 923 F.2d 1391, 1394 (9th Cir. 1991).

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5 IT IS SO ORDERED.

6 Dated: March 20, 2017

7 /s/ Barbara A. McAuliffe
8 UNITED STATES MAGISTRATE JUDGE
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