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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JASON LAMAR HALL,

Plaintiff,

v.

VERNON NAKAHARA, et al.,

Defendants.

Case No. 1:17-cv-00481-LJO-SAB

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DENYING
PLAINTIFF'S APPLICATION TO
PROCEED WITHOUT PREPAYMENT OF
FEES

(ECF No. 2)

OBJECTIONS DUE WITHIN TWENTY-
ONE DAYS

Plaintiff Jason Lamar Hall is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Along with his complaint, Plaintiff filed an application to proceed without prepayment of fees. In order to proceed in court without prepayment of the filing fee, Plaintiff must submit an affidavit demonstrating that he “is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). A prisoner bringing an action is required to submit a certified copy of his trust fund account statement for the prior 6 month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(a)(2). A prisoner is required to pay the filing fee, and granting the application to proceed without prepayment of fees just requires that monthly withdrawals be made from the inmate’s trust account when the amount in the account exceeds \$10.00 until the fee is paid in full. 28 U.S.C. § 1915(b)(2).

With his application to proceed without prepayment of fees, Plaintiff included a copy of

1 his trust account statement. According to Plaintiff's trust account statement, on February 21,
2 2017, Plaintiff had \$5,927.90 in his account. Plaintiff's balance since September 2016 has been
3 decreasing on average about \$100.00 per month. Therefore, Plaintiff's application to proceed in
4 forma pauperis demonstrates that Plaintiff is able to pay the \$400.00 filing fee in this action as he
5 has over \$5,500.00 in his inmate trust account.

6 Based upon the foregoing, the Court finds that Plaintiff is not eligible to proceed in forma
7 pauperis under 28 U.S.C. § 1915. Accordingly, it is HEREBY RECOMMENDED that
8 Plaintiff's application to proceed in forma pauperis be DENIED; and Plaintiff be ordered to pay
9 the \$400.00 filing fee within thirty (30) days.

10 This findings and recommendations is submitted to the district judge assigned to this
11 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 304. Within twenty-
12 one (21) days of service of this recommendation, Plaintiff may file written objections to this
13 findings and recommendations with the Court. Such a document should be captioned
14 "Objections to Magistrate Judge's Findings and Recommendations." The district judge will
15 review the magistrate judge's findings and recommendations pursuant to 28 U.S.C. §
16 636(b)(1)(C). Plaintiff is advised that failure to file objections within the specified time may
17 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
18 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19 IT IS SO ORDERED.

20 Dated: April 6, 2017

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23 UNITED STATES MAGISTRATE JUDGE
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