UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,

Plaintiff,

v.

Plaintiff,

V.

Defendants.

Case No. 1:17-cv-01429-DAD-SKO (PC)

FINDINGS AND RECOMMENDATIONS
TO DISMISS BASED ON PLAINTIFF'S
FAILURE TO OBEY COURT ORDER
AND TO PAY FILING FEE

(Doc. 9)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff, Brandon Alexander Favor, is a state prisoner proceeding *pro se* in this civil action filed on October 24, 2017. On that same day Plaintiff also filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (Doc. 2.) On January 30, 2018, Plaintiff's application to proceed *in forma pauperis* was denied and he was ordered to pay the \$400 filing fee in full within twenty-one days. (Doc. 9.) Although more than the time allowed has passed, Plaintiff has failed to pay the filing fee.

A civil action may not proceed absent the submission of either the filing fee or an approved application to proceed *in forma pauperis*. 28 U.S.C. §§ 1914, 1915. Plaintiff's application to proceed *in forma pauperis* was denied since he had more than three strikes against him and did not meet the imminent danger of serious physical exception per 28 U.S.C. § 1915(g) at the time this action was filed. (Docs. 5, 9.) Despite having been given time to pay the filing fee, Plaintiff has failed to do so.

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Based on Plaintiff's ineligibility to proceed in forma pauperis and his failure to comply with the Court's order to pay the filing fee in full, dismissal of this action is appropriate. In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110. Accordingly, it is **HEREBY RECOMMENDED** that this action be **DISMISSED** for Plaintiff's failure to pay the \$400 filing fee. These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(l). Within twenty-one (21) days after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). IT IS SO ORDERED. 1st Sheila K. Oberto Dated: **February 27, 2018** UNITED STATES MAGISTRATE JUDGE