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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,
Plaintiff,
v.
MINAJ, et al.,
Defendants.

Case No. 1:17-cv-01429-SKO (PC)
FINDINGS AND RECOMMENDATIONS TO DENY PLAINTIFF’S REQUEST TO PROCEED IN FORMA PAUPERIS
(Doc. 2)
ORDER DIRECTING CLERK’S OFFICE TO ASSIGN A DISTRICT JUDGE
TWENTY-ONE (21) DAY DEADLINE

I. INTRODUCTION

Plaintiff, Brandon Alexander Favor, is a state prisoner proceeding *pro se* in this civil action under 28 U.S.C. § 13423(a) and 42 U.S.C. § 1983, which he filed on June 2, 2017. Plaintiff also filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Plaintiff’s application to proceed *in forma pauperis* should be **DENIED** since he has three strikes under § 1915 and his allegations fail to show that imminent danger of serious physical injury.

II. THREE-STRIKES PROVISION OF 28 U.S.C. § 1915

28 U.S.C. § 1915 governs proceedings *in forma pauperis*. “In 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

1 injury.” 28 U.S.C. § 1915(g).

2 **III. DISCUSSION**

3 The Court may take judicial notice of court records. *United States v. Howard*, 381 F.3d
4 873, 876 n.1 (9th Cir. 2004). Here, judicial notice is taken of three of Plaintiff’s prior actions:¹
5 *Favor v. Rome, et al.*, 1:15-cv-01865-LJO-EPG, which was dismissed on November 22, 2016 for
6 failure to state a claim; *Favor-El v. United States of America, et al.*, 2:15-cv-01448-GEB-AC,
7 which was dismissed on October 22, 2015 as frivolous; and *Favor-El v. Rihanna, et al.*, 2:15-cv-
8 09502-JGB-JEM, which was dismissed on December 16, 2015 as frivolous, malicious, and for
9 failure to state a claim. Plaintiff is thus subject to 28 U.S.C. § 1915(g) and is precluded from
10 proceeding *in forma pauperis* in this action, unless he has shown that at the time he filed this
11 action, he was under imminent danger of serious physical injury.

12 The Court has reviewed Plaintiff’s Complaint and finds that he does not meet the
13 imminent danger exception. *See Andrews v. Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007).
14 Although Plaintiff’s allegations are largely incoherent, he appears to be alleging that Nicki Minaj,
15 Lil Wayne, and the record label Cash Money Record Company have harmed him -- although the
16 type of harm Plaintiff is alleging is indiscernible. (Doc. 1.) None of Plaintiff’s allegations show
17 he was under an imminent danger at the time he filed this action. Based on the foregoing, the
18 Court finds that Plaintiff fails to allege an imminent danger of serious physical injury necessary to
19 bypass § 1915(g)’s restriction on filing suit without prepayment of the filing fee since he
20 previously received three strikes. Plaintiff may not proceed *in forma pauperis* and must submit
21 the appropriate filing fee to proceed with this action.

22 **IV. CONCLUSION and RECOMMENDATION**

23 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion to
24 proceed *in forma pauperis*, filed October 24, 2017, (Doc. 2), be denied and that Plaintiff be
25 ordered to pay the filing fee in full.

26
27 ¹ Plaintiff has filed roughly 40 actions under § 1983 in this district alone, and has filed numerous other
28 actions in other district courts in this state. Plaintiff also files actions under the surnames “Favor” and
“Favor-El.”

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The Clerk’s Office is directed to assign a district judge to this action.

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)(1). Within **twenty-one (21) days** of the date of service of 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’s failure to file objections within the specified time may result in the waiver of his 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.

Dated: **November 7, 2017**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE