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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,

 Plaintiff,

 v.

MINAJ, et al.,

 Defendants.

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

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF’S REQUEST TO PROCEED IN
FORMA PAUPERIS

(Doc. Nos. 2, 5)

Plaintiff, Brandon Alexander Favor, is a state prisoner proceeding *pro se* in this civil rights action 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.

On November 7, 2017, the assigned magistrate judge issued findings and recommendations recommending that plaintiff’s motion to proceed *in forma pauperis* in this action be denied, finding that plaintiff was barred from proceedings as such under 28 U.S.C. §1915(g) because he had suffered at least three prior strike dismissals before the filing of this action and that his allegations failed to show that he was in imminent danger of serious physical injury at the time he filed suit. (Doc. No. 5.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were due within twenty-one days. (*Id.*) Plaintiff filed timely objections. (Doc. No. 8.)

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1 As was accurately stated in the findings and recommendations, prisoners may not bring a
2 civil action under 28 U.S.C. §1915(g) if they have, on three or more prior occasions, while
3 incarcerated or detained, brought an action or appeal that was dismissed as frivolous, malicious,
4 or for failure to state a claim upon which relief may be granted, unless the prisoner is under
5 imminent danger of serious physical injury. Such dismissals are colloquially referred to as
6 “strikes.” Also accurately noted in the findings and recommendations, plaintiff had suffered at
7 least three strike dismissals under section 1915(g) prior to filing this action.¹ Thus, plaintiff may
8 only proceed under section 1915(g) if his allegations meet the exception for imminent danger of
9 serious physical injury. The Ninth Circuit has stated that “requiring a prisoner to ‘allege [] an
10 ongoing danger’ . . . is the most sensible way to interpret the imminency requirement.” *Andrews*
11 *v. Cervantes*, 493 F.3d 1047, 1056 (9th Cir. 2007) (citing *Ashley v. Dilworth*, 147 F.3d 715, 717
12 (8th Cir. 1998)). The court in *Andrews* held that the imminent danger faced by the prisoner need
13 not be limited to the time frame of the filing of the complaint, but may be satisfied by alleging a
14 danger that is ongoing. *See id.* at 1053.

15 Although the allegations of plaintiff’s complaint are largely difficult to decipher, he
16 appears to be alleging that Nicki Minaj, Lil Wayne, and the record label Cash Money Record
17 Company have harmed him. The type of harm plaintiff is alleging is indiscernible, but none of
18 plaintiff’s allegations show that he was under imminent danger of a serious physical injury at the
19 time he filed this action. In his objections, which like the complaint are largely unintelligible,
20 plaintiff appears to contend that he filed this action to prevent illegal acts by defendant Minaj
21 against Maxine Anderson. Plaintiff neither argues nor cites authority to show that any of his
22 allegations meet the imminent danger requirement or that he is otherwise entitled to be granted *in*
23 *forma pauperis* status in this action, and the court finds none.

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26 ¹ *See Favor v. Rome, et al.*, 1:15-cv-01865-LJO-EPG (E.D. Cal.) (dismissed on November 22,
27 2016 for failure to state a claim); *Favor-El v. United States of America, et al.*, 2:15-cv-01448-
28 GEB-AC (E.D. Cal.) (dismissed on October 22, 2015 as frivolous); and *Favor-El v. Rihanna, et*
al., 2:15-cv-09502-JGB-JEM (C.D. Cal.) (dismissed on December 16, 2015 as frivolous,
malicious, and for failure to state a claim).

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
2 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
3 and recommendations to be supported by the record and by proper analysis.

4 Accordingly:

- 5 1. The findings and recommendations issued November 7, 2017 (Doc. 5) are adopted
6 in full;
- 7 2. Plaintiff's motion to proceed *in forma pauperis* (Doc. No. 2) is denied;
- 8 3. Within twenty-one days from the date of service of this order, plaintiff shall pay in
9 full the required \$400.00 filing fee for this action; and
- 10 4. Plaintiff's failure to comply with this order shall result in the dismissal of this
11 action.

12 IT IS SO ORDERED.

13 Dated: January 29, 2018

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16 UNITED STATES DISTRICT JUDGE
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