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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH RAYMOND McCOY,
Plaintiff,
v.
BROWN, et al.,
Defendants.

Case No. 1:18-cv-00545-AWI-BAM (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DENIAL OF PLAINTIFF’S MOTIONS TO
PROCEED *IN FORMA PAUPERIS***
(ECF Nos. 10, 12, and 18)
TWENTY-ONE (21) DAY DEADLINE

Plaintiff Joseph Raymond McCoy (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on April 23, 2018. (ECF No. 1.)

On July 20, 2018, the assigned Magistrate Judge issued findings and recommendations that Plaintiff’s application to proceed *in forma pauperis* be denied and that Plaintiff be required to pay the \$400.00 filing fee in full to proceed with this action. (ECF No. 12.) Those findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 3.) Following two extensions of time, Plaintiff filed objections to the findings and recommendations on October 26, 2018. (ECF No. 17.) Plaintiff filed a supplemental objection on January 30, 2019. (ECF No. 18.)

In his objections, Plaintiff reiterates his contention that his constitutional rights were violated by Defendants at an April 14, 2015 initial parole consideration hearing, and further violated on June 24, 2015 following the hearing. Plaintiff alleges that, following these alleged

1 constitutional violations, his interest in liberty is ongoing, and therefore the imminent danger
2 exception is satisfied.

3 Plaintiff's objections are unpersuasive. Plaintiff's conclusory allegation that he has an
4 ongoing interest in liberty (having an allegedly incorrect sentence changed) is not sufficient to
5 demonstrate that he was in "imminent danger of serious physical injury." In addition, none of
6 Plaintiff's remaining allegations pertain to events after 2015, and therefore cannot demonstrate
7 that Plaintiff was in any danger of serious physical injury in 2018, when the complaint was filed.

8 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a
9 *de novo* review of the case. Having carefully reviewed the entire file, including all of Plaintiff's
10 objections, the Court concludes that the Magistrate Judge's Findings and Recommendations are
11 supported by the record and proper analysis.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The Findings and Recommendations, (ECF No. 12), issued on July 20, 2018, are
14 adopted in full;
- 15 2. In accordance with 28 U.S.C. § 1915(g), Plaintiff's application to proceed *in forma*
16 *pauperis* (ECF No. 10) is denied; and
- 17 3. Within **twenty-one (21) days** following the date of service of this order, Plaintiff
18 shall pay the \$400.00 filing fee in full to proceed with this action. If Plaintiff fails
19 to pay the filing fee within the specified time, this action will be dismissed without
20 further notice.

21 IT IS SO ORDERED.

22 Dated: February 4, 2019

23 
24 SENIOR DISTRICT JUDGE