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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUILLERMO TRUJILLO CRUZ,
Plaintiff,
v.
B VALDEZ,
Defendant.

No. 1:18-cv-00571-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CASE

(Doc. No. 39)

Plaintiff is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 4, 2019, the court adopted findings and recommendations issued by the assigned magistrate recommending that defendant’s motion for an order revoking plaintiff’s *in forma pauperis* status be granted. (Doc. No. 37.) The assigned magistrate judge found that plaintiff is subject to the three-strikes bar pursuant to 28 U.S.C. § 1915(g) and had not met his burden of establishing that he qualified for the imminent danger exception to that provision. (*Id.*) The court also vacated its prior order granting plaintiff’s application to proceed *in forma pauperis* and ordered that, within forty-five days of service of the order adopting the findings and recommendations, plaintiff shall pay the \$400.00

1 filing fee to proceed with this action. (*Id.*) The court specifically warned that plaintiff's action
2 would be dismissed if he failed to pay the filing fee within the specified time. (*Id.*)

3 Plaintiff has, to date, failed to pay the filing fee. On October 31, 2019, the assigned
4 magistrate judge issued findings and recommendations recommending that "(1) Plaintiff's claims
5 against Defendant be dismissed without prejudice for failure to pay the filing fee and for failure to
6 obey Court orders; and (2) the Clerk of Court be instructed to close this case." (Doc. No. 39 at 2.)
7 Plaintiff was given twenty-one (21) days to file objections to the findings and recommendations.
8 On November 18, 2019, plaintiff inexplicably and without explanation filed both his objections to
9 the findings and recommendations (Doc. No. 42), and a motion for an extension of time to file
10 objections to the findings and recommendations. (Doc. No. 41). The assigned magistrate judge
11 denied the motion for an extension of time as unnecessary. (Doc. No. 43.)

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Rule
13 304, the undersigned has conducted a de novo review of this case. Having carefully reviewed the
14 entire file, including plaintiff's objections, the court finds the findings and recommendations to be
15 supported by the record and proper analysis.

16 Plaintiff objects to the motion ordering the court to revoke his *in forma pauperis* status
17 because he asserts that he informed defendant and other prison officials that he was in imminent
18 danger of serious physical injury due to verbal threats of assault, battery and stabbing two days
19 before he appeared before a committee regarding his transfer to another institution. (Doc. No. 42
20 at 1–2.) The court notes that the time to object to the findings and recommendations
21 recommending granting the motion to revoke his *in forma pauperis* status passed on February 25,
22 2019. (Doc. No. 24.) Moreover, the undersigned has already granted that motion. (Doc. No. 37.)
23 Plaintiff also states in his pending objections that he cannot pay the court's filing fees due to his
24 indigency status for the past six years. (*Id.* at 2.) However, indigency is not an exception to the
25 three-strike bar. *See* 28 U.S.C. § 1915(g).

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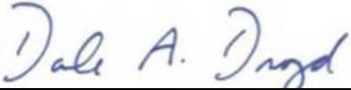
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Accordingly:

1. The October 31, 2019 findings and recommendations (Doc. No. 39) are adopted in full;
2. Plaintiff's claims against defendant are dismissed without prejudice due to plaintiff's failure to pay the filing fee as required and for failure to follow court orders; and
3. The Clerk of the Court is instructed to close this case.

IT IS SO ORDERED.

Dated: January 16, 2020


UNITED STATES DISTRICT JUDGE