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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AARON LAMONT STRIBLING,
Plaintiff,
v.
MACHADO, et al.,
Defendants.

No. 1:18-cv-01061-CAC-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DENYING
PLAINTIFF’S APPLICATION TO PROCEED
IN FORMA PAUPERIS AND REQUIRING
PLAINTIFF TO PAY THE FILING FEE TO
PROCEED WITH THIS ACTION

(Doc. Nos. 2, 8)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Aaron Lamont Stribling, a state prisoner, proceeds *pro se* in this civil rights action filed on August 2, 2018, in the United States District Court for the Central District of California. (Doc. No. 1.) The action was transferred to the Eastern District of California on August 8, 2018. (Doc. No. 4.)

On August 10, 2018, the assigned magistrate judge issued findings and recommendations recommending 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. (Doc. No. 8.) 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.) Plaintiff filed objections on August 27, 2018. (Doc. No. 10.) Together with his objections, plaintiff also

1 filed a motion to amend the complaint and a proposed first amended complaint. (Doc. Nos. 11,
2 12.)

3 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(c), this court has conducted a
4 *de novo* review of the case, including plaintiff’s objections. Plaintiff’s primary objection to the
5 findings and recommendations is that he filed an application to proceed in forma pauperis without
6 prepayment of the filing fee showing that he has insufficient funds to pay the filing fee. (Doc No.
7 10.)

8 Having carefully reviewed the entire file, including the proposed first amended complaint,
9 the court finds the findings and recommendations to be supported by the record and by proper
10 analysis. Plaintiff’s objections to the findings and recommendations fail to address the magistrate
11 judge’s finding that he is subject to the three strikes bar under 28 U.S.C. § 1915(g) since he has
12 had three prior actions filed in this district dismissed for failure to state a claim and/or as frivolous
13 or malicious as well as an appeal dismissed by the Ninth Circuit as frivolous. (Doc. No. 8 at n.
14 1.) The court finds no legal basis upon which to question the magistrate judge’s findings and
15 recommendations in that regard. Furthermore, the allegations in plaintiff’s complaint and
16 proposed first amended complaint are insufficient to trigger the “imminent danger of serious
17 physical injury” exception to the three strikes bar under § 1915(g).

18 Accordingly:

- 19 1. The findings and recommendations (Doc. No. 8) issued on August 10, 2018, are
20 adopted in full;
- 21 2. In accordance with 28 U.S.C. § 1915(g), plaintiff’s application to proceed *in forma*
22 *pauperis* (Doc. No. 2) is denied;
- 23 3. Within **twenty-one (21) days** following service of this order, plaintiff shall pay the
24 required \$400.00 filing fee in full to proceed with this action. If plaintiff fails to
25 pay the filing fee within the specified time, this action will be dismissed; and

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27 ////

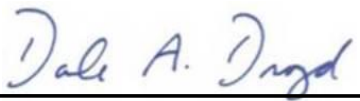
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4. The matter is referred back to the assigned magistrate for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: October 18, 2018


UNITED STATES DISTRICT JUDGE