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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GUILLERMO TRUJILLO CRUZ,)	Case No.: 1:18-cv-01641-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER ADOPTING FINDINGS AND
v.)	RECOMMENDATIONS, AND DIRECTING
)	PLAINTIFF TO SUBMIT THE \$400.00 FILING
B. BAKER.,)	FEE FOR THIS ACTION WITHIN THIRTY DAYS
)	OR THE ACTION WILL BE DISMISSED
Defendant.)	
)	[ECF Nos. 2, 3, 4, 5, 6]
)	
)	

18 Plaintiff Guillermo Trujillo Cruz is proceeding pro se in this civil rights action pursuant to 42
19 U.S.C. § 1983.

20 On November 30, 2018, the Magistrate Judge issued Findings and Recommendations
21 recommending that Plaintiff’s application to proceed in forma pauperis be denied because suffered
22 three or more strikes under 28 U.S.C. § 1915(g), and the complaint allegations did not meet the
23 imminent danger of serious physical injury. (ECF No. 5.) The Findings and Recommendations were
24 served on Plaintiff and contained notice that objections were to be filed within twenty-one (21) days.
25 (Id.) Plaintiff filed objections on December 12, 2018. (ECF No. 6.)

26 In his objections, Plaintiff continues to argue that he is in imminent danger of serious physical
27 harm based on past incidents of alleged excessive force by correctional officer B. Baker at Kern
28 Valley State Prison. (ECF No. 6.) Plaintiff’s objections are without merit. As stated in the Findings

1 and Recommendations past incidents of alleged excessive force do not meet the imminent physical
2 danger exception under section 1915(g). In addition, Plaintiff is currently (as well as at the time of
3 filing) incarcerated at Pelican Bay State Prison, not Kern Valley State Prison where officer Baker is
4 employed. Accordingly, Plaintiff has not and cannot meet the imminent physical danger exception
5 under section 1915(g).

6 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court
7 has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including
8 Plaintiff's objections, the Court finds the Findings and Recommendations to be supported by the
9 record and proper analysis

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. The Finding and Recommendations issued on November 30, 2018, are adopted in full;
- 12 2. Plaintiff's application to proceed in forma pauperis is DENIED; and
- 13 3. Within thirty (30) days from the date of service of this action, Plaintiff shall pay the
14 \$400.00 filing fee or this action will be dismissed.

15
16 IT IS SO ORDERED.

17 Dated: December 13, 2018

/s/ Lawrence J. O'Neill
18 UNITED STATES CHIEF DISTRICT JUDGE