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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,

Plaintiff,

v.

BARRY JONES, Chief of Police at the
City of Tulare, et al.,

Defendants.

No. 1:19-cv-00161-DAD-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS

(Doc. No. 12)

Plaintiff Matthew B. Cramer is a state prisoner proceeding pro se in this civil rights action brought pursuant to 28 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 May 22, 2019, the undersigned adopted findings and recommendations and denied plaintiff's application to proceed in forma pauperis on the grounds that he was subject to the three strikes bar under 28 U.S.C. § 1915(g). (Doc. No. 5.) On October 21, 2019, the Ninth Circuit Court of Appeals vacated that order and remanded this action for further proceedings, finding that one of the prior dismissals relied upon by this court in its May 22, 2019 order did not constitute a strike under § 1915(g). On January 24, 2020, following remand from the Ninth Circuit (Doc. No. 10), the assigned magistrate judge issued findings and recommendations, again recommending that plaintiff's application to proceed in forma pauperis ("IFP") (Doc. No. 2) be denied. (Doc.

1 No. 3.) Specifically, the magistrate judge identified three cases, in addition to the one
2 erroneously relied upon by this court previously, where actions brought by plaintiff had been
3 dismissed as a whole for failing to state a claim: Cramer v. Ty H. Warner, Inc., No. 2:00-mc-
4 00099-FCD-GGH (E.D. Cal. July 26, 2001); Cramer v. Multnomah Cty. Sheriff's Dep't, No.
5 3:02-cv-00141-JE (D. Or. June 25, 2002); Cramer v. Schwarzenegger, No. 1:08-cv-01310-GSA
6 (E.D. Cal. April 24, 2009). Based upon those prior dismissals, the magistrate judge found that
7 plaintiff is subject to the three strikes bar under 28 U.S.C. § 1915(g) and that the allegations of his
8 complaint do not satisfy the "imminent danger of serious physical injury" exception to that bar.
9 (Id.) The findings and recommendations were served on plaintiff and contained notice that any
10 objections thereto were to be filed within twenty-one (21) days after service. (Id. at 5.) No
11 objections have been filed and the time in which to do so has now passed.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
13 de novo review of the case. Having carefully reviewed the entire file, the court concludes that the
14 findings and recommendations are supported by the record and proper analysis.

15 Accordingly:

- 16 1. The findings and recommendations issued on January 24, 2020 (Doc. No. 12), are
17 adopted in full;
- 18 2. In accordance with 28 U.S.C. § 1915(g), plaintiff's application to proceed in forma
19 pauperis (Doc. No. 2) is denied;
- 20 3. Within fourteen (14) days following service of this order, plaintiff shall pay the
21 \$400.00 filing fee in full to proceed with this action;
- 22 4. Failure to pay the required filing fee in full within the specified time will result in
23 the dismissal of this case; and
- 24 5. The matter is referred back to the magistrate judge for proceedings consistent with
25 this order.

26 IT IS SO ORDERED.

27 Dated: March 27, 2020

28 
UNITED STATES DISTRICT JUDGE