

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY DRIVER, JR.,  
  
                                Plaintiffs,  
  
                                v.  
  
TAMARAH HARBER-PICKENS, *et al.*,  
  
                                Defendants.

No. 1:19-cv-01775-DAD-EPG  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND ORDERING  
PLAINTIFF TO PAY THE REQUIRED  
FILING FEE IN ORDER TO PROCEED  
WITH THIS ACTION  
  
(Doc. Nos. 2, 5)

Plaintiff Billy Driver Jr. is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 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 January 9, 2020, the assigned magistrate judge issued findings and recommendations, recommending that be plaintiff be ordered to pay the required filing fee in full. (Doc. No. 2.) The magistrate judge concluded that because plaintiff has accumulated at least three “strikes” under the Prison Litigation Reform Act (PLRA”) and has not shown that he is in imminent danger of serious physical injury, he is not eligible to proceed *in forma pauperis*.<sup>1</sup> (*Id.* at 2–6.) The

---

<sup>1</sup> The court notes that plaintiff did not file an application to proceed *in forma pauperis*, but instead merely alleged in conclusory fashion in his complaint that he was in imminent danger of harm. (Doc. No. 1 at 3–4.)

1 findings and recommendations were served on plaintiff and contained notice that any objections  
2 thereto were to be filed within thirty (30) days of service. (*Id.*) On February 3, 2020, plaintiff  
3 filed timely objections.<sup>2</sup> (Doc. No. 3.)


4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, the  
5 court has conducted a *de novo* review of the case. Having carefully reviewed the entire file,  
6 including plaintiff's objections,<sup>3</sup> the court concludes that the findings and recommendations are  
7 supported by the record and proper analysis.

8 Accordingly:

- 9 1. The findings and recommendations issued on January 9, 2020 (Doc. No. 2) are  
10 adopted in full; and
- 11 2. Plaintiff is ordered to pay the filing fee within forty-five (45) days of service of this  
12 order or face dismissal of this case for failure to prosecute and failure to obey a court  
13 order; and
- 14 3. Plaintiff's motion for a ruling (Doc. No. 5) is denied as having been rendered moot.

15 IT IS SO ORDERED.

16 Dated: April 14, 2020

17   
18 \_\_\_\_\_  
19 UNITED STATES DISTRICT JUDGE

20  
21  
22  
23  
24  
25  
26 <sup>2</sup> Plaintiff filed a motion for a ruling on the pending findings and recommendations just four days  
27 later, on February 7, 2020. (Doc. No. 5.)

28 <sup>3</sup> In his one-page filing, plaintiff objects to the findings and recommendations but presents no  
arguments or facts explaining his opposition thereto. (Doc. No. 3.)