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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERICK EDDIE RODRIGUEZ,

Plaintiff,

v.

MATTHEW CATE, et al.,

Defendants.

No. 1:21-cv-00898-NONE-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
MOTION TO PROCEED *IN FORMA*
PAUPERIS

(Doc. Nos. 2, 21)

Plaintiff Erick Eddie Rodriguez is a state prisoner proceeding *pro se* in this civil rights action brought under 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 August 24, 2021, the assigned magistrate judge filed findings and recommendations, recommending that plaintiff’s motion to proceed *in forma pauperis* (“IFP”) be denied because plaintiff had sufficient funds to pay the filing fee when he filed his motion. (Doc. No. 21.) The judge noted, though, that “two years have passed since plaintiff filed his IFP motion; therefore, an extension of time to pay the filing fee is warranted.” (*Id.* at 2.) The findings and recommendations were served on plaintiff and provided him 14 days to file objections thereto. (*Id.* at 3.)

Plaintiff filed objections on October 19, 2021. (Doc. No. 22.) Therein, plaintiff concedes that he had sufficient funds to pay the filing fee when he filed his motion. (*Id.*) He states that he

1 is “willing to pay” the filing fee, but he requests “the 90 days that are recommended” by the
2 magistrate judge. (*Id.*)


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 this case. Having carefully reviewed the entire file, including plaintiff’s
5 objections, the court finds the findings and recommendations to be supported by the record and
6 proper analysis. According to his inmate trust account statement (Doc. No. 6), plaintiff had
7 sufficient funds to pay the filing fee when he filed his motion to proceed IFP. Therefore, IFP
8 status is not warranted. *See* 28 U.S.C. § 1915(a)(1). The court agrees, however, that plaintiff
9 should be granted an extended period of time to pay the filing fee since he filed his motion more
10 than two years ago.

11 Accordingly,

- 12 1. The findings and recommendations issued on August 24, 2021 (Doc. No. 21) are
13 adopted in full;
- 14 2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 2) is denied;
- 15 3. Within 90 days of the date of service of this order, plaintiff shall pay the \$402 filing
16 fee in full; and,
- 17 4. Failure to pay the filing fee within the time provided will result in dismissal of this
18 action.

19 IT IS SO ORDERED.

20 Dated: October 26, 2021

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23 UNITED STATES DISTRICT JUDGE
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