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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LISA BELYEW,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION,
et al.,

Defendants.

No. 1:21-cv-01374-NONE-JLT (PC)

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

(Docs. No. 2, 8)

Twenty-One Day Deadline

Plaintiff Lisa Belyew is a state prisoner proceeding *pro se* in this civil rights action 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 September 29, 2021, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's motion to proceed *in forma pauperis* be denied. (Doc. No. 8.) The magistrate judge found that plaintiff has previously suffered three dismissals counting as strike under 28 U.S.C. § 1915(g) and that she has failed to show that she is in imminent danger of serious physical injury and therefore does not qualify under the exception to that provision.

Plaintiff filed untimely objections on October 26, 2021, again stating that she feels unsafe at the prison where she is incarcerated and wishes to be transferred to another prison. (Doc. No.

1 11.) Plaintiff alleges that Sgt. Watters allowed another inmate to listen at the door while plaintiff
2 addressed safety concerns, thereby putting plaintiff's safety at risk. Plaintiff also alleges that
3 Officer Chavira made statements to her roommates—gang members—that also placed her in an
4 unsafe environment. However, plaintiff also indicates that CDCR is investigating these issues.
5 Although plaintiff anticipates that the gang members will lie during the investigation “just to get
6 me back on the yard to fight” (Doc. No. 11), she does not describe events or threats that plausibly
7 suggest she faces an “imminent danger of serious physical injury.” Under these circumstances,
8 plaintiff has failed to adequately allege that the imminent danger exception to the three strikes
9 rule applies here.

10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
11 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
12 and recommendations to be supported by the record and proper analysis.

13 Accordingly,

- 14 1. The findings and recommendations issued on September 29, 2021, (Doc. No. 8),
15 are adopted;
- 16 2. Plaintiff's motion to proceed *in forma pauperis*, (Doc. No. 2), is **DENIED**;
- 17 3. Within **twenty-one (21) days** following the date of service of this order, plaintiff
18 shall pay the \$402.00 filing fee in full to proceed with this action. If plaintiff fails
19 to pay the filing fee within the specified time, this action will be dismissed without
20 further notice.

21 IT IS SO ORDERED.

22 Dated: December 8, 2021

23 
UNITED STATES DISTRICT JUDGE