

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER,

Plaintiff,

No. CIV. S-09-1969-GEB-KJN-P

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 June 8, 2010 and August 10, 2010, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. Plaintiff filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

////

1 1. The findings and recommendations filed June 8, 2010 (Dkt. No. 17) and
2 August 10, 2010 (Dkt. No. 22), are adopted in full;

3 2. Pursuant to the “three strikes” rule of the Prison Litigation Reform Act, 28
4 U.S. C. § 1915(g), plaintiff is barred, while incarcerated, from filing further civil rights
5 complaints in this court without prepayment of the full filing fee;

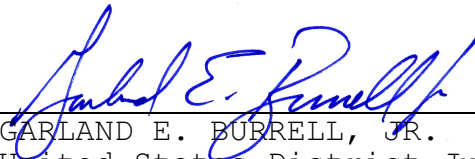
6 3. The bar applies to the instant case and thus plaintiff’s application to proceed in
7 forma pauperis (Dkt No. 2) is denied without prejudice to payment of the full filing fee;

8 4. Plaintiff may, within thirty days after service of this order, file a Second
9 Amended Complaint in conjunction with payment of the full filing fee;

10 5. Failure of plaintiff to timely file a Second Amended Complaint and pay the full
11 filing fee shall result in dismissal of this action; and

12 6. Plaintiff’s motion for a preliminary injunction (Dkt No. 21) is denied.

13 Dated: September 14, 2010

14
15 
16 _____
GARLAND E. BURRELL, JR.
United States District Judge