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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	MARVIN GLENN HOLLIS,	No. 2:13-cv-2145-EFB P
12	Plaintiff,	
13	V.	ORDER AND FINDINGS AND
14	J. BAL, et al.,	RECOMMENDATIONS
15	Defendants.	
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17	Plaintiff is a state prisoner proceeding without counsel in an action brought under 42	
18	U.S.C. § 1983. Shortly after filing his complaint, plaintiff filed a motion to proceed in forma	
19	pauperis and consented to the jurisdiction of a magistrate judge. ECF Nos. 3 & 4. On May 20,	
20	2014, before any defendant was served, the undersigned denied plaintiff's application to proceed	
21	in forma pauperis pursuant to the "three-strik	es" provision of 28 U.S.C. § 1915(g) and dismissed
22	the case without prejudice to re-filing upon p	repayment of the \$400 filing fee. ECF No. 6.
23	Plaintiff now moves for reconsideration of th	at order and seeks relief from judgment pursuant to
24	Rule 60(b) of the Federal Rules of Civil Procedure, citing Williams v. King, 875 F.3d 500 (9th	
25	Cir. 2017), which held that <i>all</i> parties, includ	ing unserved defendants, must consent in order for
26	jurisdiction to vest with the magistrate judge pursuant to 28 U.S.C. § 636(c)(1). ECF No. 15.	
27	Plaintiff's motion should be granted, as follows.	
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1	First, given that all named parties did not consent to proceed before the magistrate judge,		
2	the May 20, 2014 order and judgment are void and plaintiff's motion for relief from judgment		
3	should be granted. See Fed. R. Civ. P. 60(b)(4).		
4	Second, and upon reconsideration, plaintiff's application to proceed in forma pauperis		
5	should be granted because plaintiff made plausible allegations that he was "under imminent		
6	danger of serious physical injury" at the time he lodged his complaint, including that the denial of		
7	accommodations for his various medical conditions and disabilities subjected him to "daily		
8	increased pain in his feet, back, and shoulders." ECF No. 1 at 22; 28 U.S.C. § 1915(g); see also		
9	Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007) (an exception to the three-strikes rule		
10	exists "if the complaint makes a plausible allegation that the prisoner faced 'imminent danger of		
11	serious physical injury' at the time of filing").		
12	Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly		
13	assign a United States District Judge to this action.		
14	Further, IT IS HEREBY RECOMMENDED that:		
15	1. Plaintiff's motion for relief from judgment (ECF No. 15) be granted and the May 20,		
16	2014 order (ECF No. 6) and judgment (ECF No. 7) be vacated and the Clerk directed		
17	to reopen the case.		
18	2. Plaintiff's motion to proceed in forma pauperis (ECF No. 3) be granted.		
19	These findings and recommendations are submitted to the United States District Judge		
20	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days		
21	after being served with these findings and recommendations, any party may file written		
22	objections with the court and serve a copy on all parties. Such a document should be captioned		
23	"Objections to Magistrate Judge's Findings and Recommendations." Any response to the		
24	objections shall be served and filed within fourteen days after service of the objections. The		
25	parties are advised that failure to file objections within the specified time may waive the right to		
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1	appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez		
2	v. Ylst, 951 F.2d 1153 (9th Cir. 1991).		
3	Dated: March 14, 2018.		
4	EDMUND F. BRENNAN		
5	UNITED STATES MAGISTRATE JUDGE		
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