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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LONNIE WILLIAMS,
Plaintiff,
v.
JINKERSON, et al.,
Defendants.

No. 2:14-cv-0838-MCE-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Plaintiff seeks leave to proceed in forma pauperis. See 28 U.S.C. § 1915(a). For the reasons explained below, the court finds that plaintiff has not demonstrated she is eligible to proceed in forma pauperis. A prisoner may not proceed in forma pauperis,

if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

On at least three prior occasions, plaintiff has brought actions while incarcerated that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. See (1) *Williams v. Andrews*, 1:01-cv-6222 REC HGB P (E.D. Cal. Feb. 22, 2002) (order dismissing action for failure to state a claim); (2) *Williams v. Wood*, 1:01-cv-6151 REC LJO P

1 (E.D. Cal. Feb. 28, 2002) (order dismissing action with prejudice for failure to state a claim); and
2 (3) *Williams v. Rendon*, 1:01-cv-5891 AWI SMS P (E.D. Cal. Mar. 18, 2002) (order dismissing
3 action for failure to state a claim). *See also Williams v. Gonzales*, 1:03-cv-6770 REC WMW P
4 (E.D. Cal. Sept. 10, 2004) (order designating plaintiff as a three strikes litigant under 28 U.S.C.
5 § 1915(g)).

6 According to the complaint filed in this action, plaintiff is in imminent danger because the
7 defendants are attempting to murder her “with poisons, biological agents, toxins, bacterias, saliva,
8 and medications.” ECF No. 1, § V and p.8. However, § 1915(g)’s exception does not apply
9 because plaintiff’s allegations of imminent danger are not plausible. *See Andrews v. Cervantes*,
10 493 F.3d 1047, 1055 (9th Cir. Cal. 2007) (section 1915(g) imminent danger exception applies
11 where complaint makes a “plausible” allegation that prisoner faced imminent danger of serious
12 physical injury at the time of filing.). Indeed, the court has informed plaintiff on numerous
13 occasions that her allegations about being poisoned are not plausible. *See Williams v. Bauer*, No.
14 2:12-cv-2158-MCE-EFB (E.D. Cal. Jan. 30, 2013) (finding plaintiff’s allegations of being
15 poisoned implausible and denying application to proceed in forma pauperis); *Williams v. Norton*,
16 2:12-cv-2889-CKD (E.D. Cal. Dec. 4, 2012) (same); *Williams v. CDCR*, 2:12-cv-1616-JAM-
17 EFB (E.D. Cal. Aug 1. 2012) (finding implausible plaintiff’s allegations of being poisoned, and
18 recommending that plaintiff’s in forma pauperis status be denied), *adopted* (E.D. Cal. Oct. 29,
19 2012); *Williams v. Willie*, CIV S-11-1532-MCE-DAD (E.D. Cal. Mar. 16, 2012) (finding
20 implausible plaintiff’s allegations of being poisoned, noting that she had been making such claims
21 since 2006, and determining that the imminent danger exception of § 1915(g) did not apply),
22 *adopted* (E.D. Cal. Apr. 23, 2012); *Williams v. Gomez*, 2:11-cv-0426-GEB-EFB (E.D. Cal. Dec.
23 21, 2011) (finding implausible plaintiff’s allegations of being poisoned and denied HIV
24 medication, and recommending that plaintiff’s in forma pauperis status be revoked), *adopted*
25 (E.D. Cal. Feb. 6, 2012), *aff’d* (9th Cir. Aug. 5, 2013). Plaintiff’s application for leave to proceed
26 in forma pauperis must therefore be denied pursuant to § 1915(g).

27 Moreover, the “court has the inherent power to restrict a litigant’s ability to commence
28 abusive litigation in forma pauperis.” *Visser v. Supreme Court of California*, 919 F.2d 113, 114

1 (9th Cir. 1990) (citing *In re McDonald*, 489 U.S. 180 (1989)). Despite the numerous dismissals,
2 listed above, plaintiff continues to initiate lawsuits in forma pauperis, such as this one, on the
3 grounds that the imminent danger exception applies based on her allegations of being poisoned on
4 a daily basis. *See, e.g., Williams v. Bal*, 2:12-cv-1005-LKK-EFB (E.D. Cal) (April 17, 2012
5 complaint alleging imminent danger of injury or death because she was denied HIV medication
6 and prison officials were poisoning her food); *Williams v. Wedell*, 2:12-cv-1438-GEB-GGH (E.D.
7 Cal.) (May 29, 2012 complaint alleging denial of HIV medication and imminent danger because
8 of poisoning); *Williams v. Nappi*, 2:12-cv-1604-GEB-CMK (E.D. Cal.) (June 14, 2012 complaint
9 alleging imminent danger because of daily poisoning); *Williams v. CDCR*, 2:12-cv-1616-JAM-
10 EFB (E.D. Cal.) (June 15, 2012 complaint alleging the same). Given these filings, the court finds
11 that plaintiff's application for leave to proceed in forma pauperis should also be denied because
12 plaintiff has "engaged in a pattern of litigation which is manifestly abusive." *Visser*, 919 F. 2d at
13 114.

14 Accordingly, it is hereby RECOMMENDED that:

- 15 1. Plaintiff's application to proceed in forma pauperis (ECF No. 4) be denied; and
- 16 2. This action be dismissed without prejudice to re-filing upon pre-payment of the \$400
17 filing fee.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, any party may file written
21 objections with the court and serve a copy on all parties. Such a document should be captioned
22 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
23 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
24 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

25 Dated: June 25, 2014.

26 
27 EDMUND F. BRENNAN
28 UNITED STATES MAGISTRATE JUDGE