UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT ELLIS,

Plaintiff,

v.

D. QUALLS, et al.,

Defendants.

No. 2:14-CV-1875 AC P

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Plaintiff's request to proceed in forma pauperis was held in abeyance pending determination of whether this lawsuit is duplicative of See Ellis v. Faulk, 2:14-cv-0802 AC P (E.D. Cal.) (Claire, M.J.). Plaintiff has consented to the jurisdiction of the magistrate judge. ECF No. 4.

Upon further review of the record, the court has determined that plaintiff is statutorily precluded from proceeding in forma pauperis. Plaintiff has,

> on 3 or more prior occasions, while incarcerated . . ., brought an action . . . 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.

See 28 U.S.C. § 1915(g). Further, plaintiff has not shown that he "is under imminent danger of

serious physical injury." Id.

1. Prior Cases

Plaintiff has filed numerous cases in this district, proceeding as a prisoner in forma pauperis. Well before plaintiff filed the action now before the court, three of plaintiff's lawsuits had already been dismissed for failure to state a claim. See, e.g., Ellis v. Runnels, 2:06-cv-0040-FCD-EFB, ECF No. 22 (E.D. Cal. May 16, 2007) (failure to state a claim: challenge to prison regulation that prohibited prisoners from having images depicting female frontal nudity); Ellis v. Reddy (Doctor), 2:11-cv-0363-GEB-CKD, ECF No. 27 (E.D. Cal. Dec. 16, 2011) (failure to state a claim: asserting inadequate medical treatment and failure to refer to outside doctor); Ellis v. Faulk, 2:13-cv-2197-CKD, ECF No. 11 (E.D. Cal. Feb. 18, 2014) (frivolous and failure to state a claim: challenge to prison policy banning hair trimmers, nail clippers, and cream-filled pastries and cookies). In addition, another of plaintiff's cases was dismissed for failure to state a claim two weeks before plaintiff filed this action. See Ellis v. Bergsen, 2:14-cv-0705-EFB, ECF No. 8 (E.D. Cal. Jul. 25, 2014) (failure to state a claim: challenge to prison guard's confiscation of plaintiff's "adult magazine").

2. Imminent Danger

Plaintiff could nevertheless proceed in forma pauperis if he made a showing that he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). The court has examined plaintiff's complaint and other filings, and finds no assertion that he is in imminent danger of serious physical injury.

3. Conclusion

Accordingly, IT IS HEREBY ORDERED that for the reasons set forth above:

1. Plaintiff's application to proceed in forma pauperis (ECF No. 2), is DENIED with prejudice, and plaintiff is barred from proceeding in forma pauperis in this action pursuant to the three strikes provision of 28 U.S.C. § 1915(g);

2. Plaintiff is directed to pay the filing fee in full within twenty-eight days of the date of this order; and

////

3. Absent timely payment of the filing fee, this case will be dismissed.

DATED: December 23, 2014

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE