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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,
Plaintiff,
v.
STAINER, et al.,
Defendants.

No. 2:14-cv-2958 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. He seeks leave to proceed in forma pauperis. See 28 U.S.C. § 1915(a). For the reasons discussed below, the undersigned recommends that plaintiff's request to proceed in forma pauperis be denied.

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).

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1 Court records reflect that on at least three prior occasions, plaintiff has brought actions
2 while incarcerated that were dismissed as frivolous, malicious, or for failure to state a claim upon
3 which relief may be granted. See: 1) Blackman v. Taxdahl, No. 1:04-cv-6389 AWI LJO (May
4 18, 2007 E.D. Cal.) (order dismissing action for failure to state a claim); 2) Blackman v. Evans,
5 No. 1:06-cv-0081 GSA (Feb. 3, 2009 E.D. Cal.) (order dismissing action for failure to state a
6 claim); and 3) Blackman v. Medina, 3: 05-cv-5390 SI (Mar. 13, 2006 N.D. Cal.) (order
7 dismissing action for failure to state a claim). See also Blackman v. Hedgpath, 1:10-cv-1393 LJO
8 MJS (Aug. 11, 2010 E.D. Cal.) (order designating plaintiff a three strikes litigant for purposes of
9 section 1915(g).)

10 The section 1915(g) exception applies if the complaint makes a plausible allegation that
11 the prisoner faced “imminent danger of serious physical injury” at the time of filing. 28 U.S.C. §
12 1915(g); Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007). Although somewhat
13 difficult to understand, it appears that plaintiff is claiming that defendants interfered with his
14 ability to file administrative grievances as well as with his ability to challenge his criminal
15 convictions. These claims do not suggest that plaintiff faced imminent danger of serious physical
16 injury at the time he filed the complaint. Accordingly, the undersigned recommends that
17 plaintiff’s application to proceed in forma pauperis be denied.

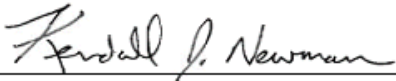
18 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall assign a district
19 judge to this action; and

20 IT IS HEREBY RECOMMENDED that plaintiff’s application to proceed in forma
21 pauperis (ECF No. 8) be denied; and plaintiff be ordered to pay the filing fee within thirty days of
22 the adoption of these findings and recommendations.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
25 after being served with these findings and recommendations, plaintiff may file written objections
26 with the court and serve a copy on all parties. Such a document should be captioned
27 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
28 failure to file objections within the specified time may waive the right to appeal the District

1 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

2 Dated: February 24, 2015

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KENDALL J. NEWMAN
5 UNITED STATES MAGISTRATE JUDGE

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