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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WALTER SHANE LANGSTON,
Plaintiff,
v.
WEBER,
Defendant.

No. 2:16-cv-2360 MCE CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has filed a request to proceed in forma pauperis. Title 28 U.S.C. § 1915(g) reads:

In no event shall a prisoner bring a civil action . . . [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.

The court has reviewed relevant court records and has determined the following actions amount to “strikes” under 28 U.S.C. § 1915(g):

1. Langston v. Finn, No. 2:08-cv-2475 EFS, dismissed for failure to state a claim upon which relief can be granted on May 1, 2013.

1 2. Langston v. CDCR, No. 2:10-cv-3191 KJN, dismissed for failure to state a claim upon
2 which relief can be granted on May 24, 2013.

3 3. Langston v. Shiaishi, No. 2:11-cv-1624 DAD, claims dismissed as frivolous and not
4 cognizable on March 13, 2013.

5 Judgment was final in all three cases before plaintiff commenced this action.¹

6 Plaintiff's claims do not suggest imminent danger of serious physical injury. Most
7 notably, the only defendant in this action is a psychologist at California State Prison, Sacramento.
8 When plaintiff filed this complaint, however, plaintiff was housed at Chowchilla State Prison.²

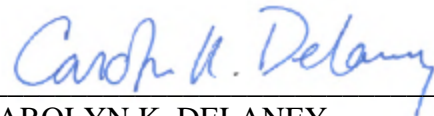
9 For these reasons, plaintiff's motion to proceed in forma pauperis must be denied.
10 Plaintiff will be granted 14 days within which to submit the \$400 filing fee for this action. If
11 plaintiff does not submit the filing fee within 14 days, the court will recommend that this action
12 be dismissed.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 6) is denied.

15 2. Plaintiff shall submit the \$400 filing fee for this action within 14 days. Failure to
16 submit the filing fee within 14 days will result in a recommendation that this action be dismissed.

17 Dated: February 15, 2017



18 CAROLYN K. DELANEY
19 UNITED STATES MAGISTRATE JUDGE

20
21
22 1/mp
23 lang2360.3ks

24 ¹ Recently, the same conclusion was reached with respect to the three cases identified above in
25 2:15-cv-1437 GEB KJN P.

26 ² If plaintiff is concerned about his current medical care, he would have to file a suit describing
27 current conditions. If plaintiff alleges facts suggesting he is under imminent danger of serious
28 physical injury, he would be permitted to proceed in forma pauperis. Also, the court notes that
Chowchilla State Prison is within the area covered by the Fresno division of this court.
Therefore, any complaint concerning conditions at Chowchilla should be filed in Fresno.