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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,
Plaintiff,
v.
MODOC COUNTY, et al.,
Defendants.

No. 2: 18-cv-2560 TLN 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. On November 19, 2018, the undersigned recommended that this action be dismissed for plaintiff’s failure to file an in forma pauperis application or pay the filing fee. (ECF No. 10.) On December 10, 2018, plaintiff filed an in forma pauperis application. (ECF No. 11.) Good cause appearing, the November 19, 2018 findings and recommendations are vacated.

The court has recently learned that plaintiff is not permitted to proceed in forma pauperis because he has “struck out” pursuant to Title 28 U.S.C. § 1915(g). See Bonilla v. Lively, 4: 11-cv-3180 CW (N.D. Cal. Oct. 25, 2011). In the instant action, plaintiff also does not allege that he is under “imminent danger of serious physical injury.” See 28 U.S.C. § 1915(g).

Accordingly, IT IS HEREBY ORDERED that the November 19, 2018 findings and recommendations (ECF No. 10) are vacated; and

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IT IS HEREBY RECOMMENDED that:

1. Plaintiff’s motion to proceed in forma pauperis (ECF No. 11) be denied;
2. Plaintiff be ordered to pay the filing fee within fourteen days of the adoption of these findings and recommendations.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: December 20, 2018


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

Bon2560.vac