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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,  
Plaintiff,  
v.  
A. HUBBARD,  
Defendant.

No. 2:19-cv-2350 JAM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 30, 2020, the magistrate judge filed findings and recommendations herein, finding that plaintiff is a three-strikes litigant. The findings and recommendations were served on plaintiff and contained notice that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the

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1 court finds the findings and recommendations to be supported by the record and by proper  
2 analysis.<sup>1</sup>

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed July 30, 2020, are adopted in full;
- 5 2. Plaintiff's application to proceed in forma pauperis, ECF No. 2, is denied; and
- 6 3. Plaintiff is directed to pay the \$400 filing fee within thirty (30) days after an order  
7 adopting these findings and recommendations; failure to do so will result in the dismissal of this  
8 action without prejudice.
- 9 4. Further, plaintiff's motion for appointment of counsel, ECF No. 10, is denied without  
10 prejudice, and plaintiff's motion for extended time, ECF No. 11, is denied as moot.

11 DATED: September 9, 2020

12 /s/ John A. Mendez

13 UNITED STATES DISTRICT COURT JUDGE  
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22 <sup>1</sup> Plaintiff asks the court to determine whether two of his three strikes are the same case. See  
23 ECF No. 10 at 2. Review of these cases demonstrates that Ruiz v. Curry, Case No. 1:17-cv-1454  
24 DAD SAB (E.D. Cal.), and Ruiz v. Curry, Case No.1:17-cv-1407 SAD SKO (E.D. Cal.) are  
25 distinct cases; both cases were originally filed in the Northern District and accorded unrelated  
26 case numbers before being transferred to this court. Therefore they continue to count as two  
27 strikes. In addition, plaintiff seeks to "withdraw" his third strike, Ruiz v. McGuire, Case No.  
28 3:16-cv-0388 AJB BLM (S.D. Cal.), noting that further orders were issued in that case after its  
dismissal. ECF No. 10 at 2. Review of the docket in that case demonstrates that plaintiff  
continued to file documents resulting in numerous "discrepancy" orders, none of which vacated  
the dismissal of the case for failure to state a claim or providing a ground upon which plaintiff  
may seek its "withdrawal" as a strike.