UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,

Plaintiff,

v.

D. WOODFILL, et al.,

Defendants.

No. 2:20-cv-0205 KJM AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983.

On February 3, 2020, the undersigned filed findings and recommendations that recommended that plaintiff be denied leave to proceed in forma pauperis and be required to pay the filing fee in full or have the complaint dismissed. ECF No. 4. Plaintiff initially did not file any objections and the findings and recommendations were adopted in full. ECF No. 8. He then filed a motion for appointment of counsel that also sought reconsideration of the order directing him to pay the filing fee. ECF No. 9.

On April 20, 2020, after plaintiff failed to pay the filing fee, the undersigned filed additional findings and recommendations and recommended that the case be dismissed. ECF No. 11. However, shortly after the April 20, 2020 findings and recommendations were filed, the District Judge gave plaintiff another opportunity to file objections to the February 3, 2020

findings and recommendations (ECF No. 12), which he proceeded to do (ECF No. 15). By order filed on July 8, 2020, the District Judge affirmed the adoption of the February 3, 2020 findings and recommendations and denied plaintiff's request to proceed in forma pauperis. ECF No. 17. The District Judge also deferred action on the April 20, 2020 findings and recommendations and sought clarification from the undersigned as to whether those findings and recommendations are now before the District Judge. Id.

In light of the re-opening of the period to object to the February 3, 2020 findings and recommendations and the accompanying possibility that plaintiff would be granted leave to proceed in forma pauperis, the April 20, 2020 findings and recommendations will be vacated. However, since the denial of in forma pauperis status has now been affirmed, plaintiff will be required to pay the filing fee.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed April 20, 2020 (ECF No. 11), are vacated.

2. Within thirty days of the service of this order plaintiff shall pay the entire $400.00 in required fees. Failure to comply with this order will result in a recommendation that this case be dismissed.

DATED: July 13, 2020

Allison Claire

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE