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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SALADIN RUSHDAN AKA  
ROBERT STANLEY WOODS,

Plaintiff,

v.

JENNIFER SOARES, et al.,

Defendants.

No. 2:24-cv-1768-SCR-P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without an attorney in this civil rights action filed pursuant to 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).

**I. In Forma Pauperis Statute**

Plaintiff has requested leave to proceed in forma pauperis. Title 28 U.S.C. § 1915(g) reads as follows:

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.

This “three strikes rule” was part of “a variety of reforms designed to filter out the bad claims [filed by prisoners] and facilitate consideration of the good.” Coleman v. Tollefson, 575 U.S. 532 (2015) (quoting Jones v. Bock, 549 U.S. 199, 204 (2007)).

1           **II.     Prior Cases Counting as Strikes**

2           A review of cases plaintiff previously filed in this court shows that at least three were  
3 dismissed for failure to state a claim.<sup>1</sup>

4           A. Rushdan v. Terhune, et al., No. 2:01-cv-00364-LKK-GGH (E.D. Cal.)

5           After dismissing the original complaint for failing to state a claim and granting plaintiff  
6 leave to amend, this case was eventually dismissed once plaintiff failed to file an amended  
7 complaint. “[W]hen (1) a district court dismisses a complaint on the ground that it fails to state a  
8 claim, (2) the court grants leave to amend, and (3) the plaintiff then fails to file an amended  
9 complaint, the dismissal counts as a strike under § 1915(g).” Harris v. Mangum, 863 F.3d 1133,  
10 1143 (9th Cir. 2017). Thus, the court finds that this prior action constitutes a strike within the  
11 meaning of 28 U.S.C. § 1915(g).

12           B. Rushdan v. Ramirez-Palmer, et al., No. 2:02-cv-00524-DFL-DAD (E.D. Cal.)

13           The court dismissed this case without prejudice for failing to state a claim and thus  
14 constitutes a second strike.

15           C. Rushdan v. Gear, et al., No. 1:16-cv-01017-LJO-BAM (E.D. Cal.)

16           On June 12, 2018, this case was dismissed with prejudice for failing to state a cognizable  
17 claim for relief. As a result, the court concludes that it constitutes plaintiff’s third strike. 28  
18 U.S.C. § 1915(g).

19           Based on the court’s review of these prior cases, plaintiff may only proceed in forma  
20 pauperis if he plausibly alleges that he was faced with imminent danger of serious physical injury  
21 at the time he filed the complaint. See Williams v. Paramo, 775 F.3d 1182, 1189 (9th Cir. 2015);  
22 Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007). In this case, there is no allegation by  
23 plaintiff that he is under imminent danger of serious physical injury at the time that he filed the  
24 complaint. Nor could he plausibly do so based on his claims that are based on the use of false  
25 information to deny him parole. ECF No. 1.

26  
27 <sup>1</sup> The court may take judicial notice of court filings. See Reyn’s Pasta Bella, LLC v. Visa, 442  
28 F.3d 741, 746 n.6 (9th Cir. 2006) (“We may take judicial notice of court filings and other matters  
of public record.”); see also Fed. R. Evid. 201.

1 In light of the foregoing, the undersigned recommends denying plaintiff's request for  
2 leave to proceed in forma pauperis. It is further recommended that plaintiff be granted thirty days  
3 in which to pay the full filing fee for this action.

4 **III. Plain Language Summary for Party Proceeding Without a Lawyer**

5 Since plaintiff is representing himself in this case, the court wants to make sure that the  
6 words of this order are understood. The following information is meant to explain this order in  
7 plain English and is not intended as legal advice.

8 In deciding whether to allow you to proceed without paying the filing fee, the court has  
9 reviewed the prior cases that you filed. Three of these prior cases count as "strikes" and there is  
10 no showing that you were in imminent danger of serious physical injury at the time you filed this  
11 case. So it is recommended that you be required to pay the whole filing fee at one time if you  
12 want to proceed with this case.

13 If you disagree with this recommendation, you have 21 days to explain why it is not  
14 correct. Label your explanation as "Objections to Magistrate Judge's Findings and  
15 Recommendations." The final decision will be made by the district judge assigned to your case.

16 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign this  
17 matter to a district judge.

18 IT IS FURTHER RECOMMENDED that:

- 19 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) be denied.
- 20 2. Plaintiff be granted thirty days in which to pay the \$405 filing fee for this action.
- 21 3. Failure to pay the filing fee within the time provided will result in the dismissal of this  
22 action.

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 twenty-one days  
25 after being served with these findings and recommendations, plaintiff may file written objections  
26 with the court. Such a document should be captioned "Objections to Magistrate Judges Findings  
27 and Recommendations." Plaintiff is advised that failure to file objections within the specified

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1 time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153  
2 (9th Cir. 1991).

3 DATED: March 10, 2025

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5 SEAN C. RIORDAN  
6 UNITED STATES MAGISTRATE JUDGE

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