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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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10 OSSIE LEE SLAUGHTER,  
11 Plaintiff,

4:17-cv-05027-SAB

12 v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION,  
DENYING LEAVE TO  
PROCEED IN FORMA  
PAUPERIS, DISMISSING  
ACTION AND DENYING ALL  
PENDING MOTIONS AS MOOT**

13 DOUGLAS JONES, C/O VILLAREAL,  
14 RICHARD MORGAN, CHRISTINE  
15 BRULE, DIANE SANCHEZ, JEFFREY  
16 UTTECHT, MICHELLE DUNCAN,  
17 SHANE RIRIE, PA DELPH, D.  
18 SCANTLIN, JACKEY L. FLUIATT,  
19 JOSHUA CRUGER and MARK LEIGH,  
20 Defendants.

21 BEFORE THE COURT is Magistrate Judge John R. Rodger's Report and  
22 Recommendation to deny Plaintiff leave to proceed in forma pauperis as precluded  
23 under 28 U.S.C. § 1915(g), to dismiss the action for failure to pay the filing fee  
24 under 28 U.S.C. § 1914, and to deny all pending motions. ECF No. 18. After being  
25 granted additional time, Plaintiff, a pro se prisoner at the Washington State  
26 Penitentiary filed timely Objections on October 27, 2017, ECF No. 22. He also  
27 filed a Motion for telephonic appearance, which he noted for hearing on November  
28 27, 2017.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING  
LEAVE TO PROCEED IN FORMA PAUPERIS, DISMISSING ACTION  
AND DENYING ALL PENDING MOTIONS AS MOOT -- 1**

1 The Court has reviewed the record, including Plaintiff's Objections totaling  
2 99 pages and is fully informed. Plaintiff was granted the opportunity to show cause  
3 why he should be allowed to proceed in forma pauperis in these proceedings under  
4 28 U.S.C. § 1915(g), and failed to do so. He did not counter the Court's finding  
5 that three or more of his prior actions were dismissed as frivolous or malicious, or  
6 for failure to state a claim, ECF No. 13 at 2, although he now claims the Ninth  
7 Circuit erroneously dismissed *Slaughter v. Sinclair*. ECF No. 22 at 12.

8 The Honorable Lonny R. Suko dismissed *Slaughter v. Sinclair, et al.*:11-  
9 cv-00430-LRS, with prejudice for failure to state a claim upon which relief may be  
10 granted on July 30, 2012, ECF No. 48. Plaintiff appealed that decision to the Ninth  
11 Circuit Court of Appeals, and on November 8, 2012, the Court of Appeals denied  
12 Mr. Slaughter's motion to proceed in forma pauperis because they also found his  
13 appeal to be frivolous in cause number 12-35686. The Mandate was issued on  
14 December 17, 2012, when the filing fee was not paid. Plaintiff presents no facts in  
15 support of his contention that the dismissal was erroneous.

16 Plaintiff asserts that he should be allowed to amend his complaint. ECF No.  
17 22 at 2. He was granted the opportunity to present facts showing he was under  
18 imminent danger of serious physical injury when he lodged his complaint on  
19 March 20, 2017, ECF No. 13 at 4, and he did not do so. His assertions that he is  
20 continuously placed in the Intensive Management Unit, falsely fractured, denied  
21 legal supplies, and subjected to cell searches, ECF No. 22 at 12, do not make the  
22 requisite showing. Grievances, kites and disciplinary actions occurring in August,  
23 September and October 2017, ECF No. 22-1, have no relevance to whether  
24 Plaintiff was under imminent danger of serious physical injury in March 2017.  
25 Consequently, Plaintiff is precluded from proceeding in this action in forma  
26 pauperis under 28 U.S.C. § 1915(g).

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**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING  
LEAVE TO PROCEED IN FORMA PAUPERIS, DISMISSING ACTION  
AND DENYING ALL PENDING MOTIONS AS MOOT -- 2**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. For the reasons set forth by the Magistrate Judge, the Report and  
3 Recommendation, ECF No. 18, is **ADOPTED IN ITS ENTIRETY.**

4 2. Plaintiff's application to proceed in forma pauperis, ECF No. 2, is  
5 **DENIED.**

6 3. Although granted the opportunity to do so, Plaintiff did not pay the  
7 \$400.00 fee (\$350.00 filing fee, plus \$50.00 administrative fee) to commence this  
8 action. Therefore, this action is **DISMISSED** for failure to comply with the filing  
9 fee requirements of 28 U.S.C. § 1914.

10 4. All pending motions are **DENIED as moot.**

11 5. The Court certifies any appeal of this dismissal would not be taken in  
12 good faith.

13 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
14 enter judgment, forward a copy to Plaintiff and **close** the file.

15 **DATED** this 28th day of November 2017.



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A handwritten signature in blue ink that reads "Stanley A. Bastian".

21 Stanley A. Bastian  
22 United States District Judge  
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