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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TERRANCE JON IRBY,

Plaintiff,

v.

HAYNES, et al.,

Defendants.

CASE NO. C15-5628 RJB - JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION, REVOKING
IN FORMA PAUPERIS STATUS,
AND DIRECTING PLAINTIFF TO
PAY THE FILING FEE

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 65. The Court has considered the relevant record, including Plaintiff’s objections, if any.

On March 14, 2016, the Report and Recommendation was filed, recommending that Plaintiff’s *in forma pauperis* (“IFP”) status be revoked because he has filed three or more civil actions or appeals that were dismissed as frivolous and for failure to state a claim; and because the complaint does not show that he is in imminent danger of serious injury. Dkt. 65.

ORDER ADOPTING REPORT AND
RECOMMENDATION, REVOKING IN FORMA
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PLAINTIFF TO PAY THE FILING FEE- 1

1 Plaintiff filed objections (Dkt. 68) which provide that “[t]his court having granted (“IFP”)
2 not violates [sic] its own Rule LCR 1 (d) prohibition against bias and prejudice conduct.” Dkt.
3 68, at 1. Plaintiff’s objections further provide: “[t]he Court may hold this case in obedience [sic]
4 or continue to issue wishy washy rulings on a whim [sic]. Arbitrary governmental decision
5 making.” *Id.*

6 Plaintiff’s objections do not provide a basis to reject the Report and Recommendation.
7 Plaintiff makes no showing that the case should be stayed or otherwise held in abeyance. The
8 Report and Recommendation should be adopted. The record shows that Plaintiff has filed three
9 or more cases during his incarceration that were dismissed by the district court and the U.S.
10 Court of Appeals for the Ninth Circuit on the grounds that they were frivolous or failed to state a
11 claim. Plaintiff has failed to allege facts sufficient to show that he is in imminent danger of
12 serious physical injury. Accordingly, under 28 U.S.C. § 1915(g), Plaintiff’s IFP status should be
13 revoked.

14 The Report and Recommendation recommends that Plaintiff be given an opportunity to
15 pay the \$400 filing fee. Dkt. 65. The recommendation should be adopted. Plaintiff should be
16 given until May 13, 2016 to pay the filing fee. Plaintiff is warned that failure to pay the fee will
17 result in dismissal of the case.

18 The Report and Recommendation’s recommendation that all pending motions be renoted
19 should be adopted. All pending motions should be renoted for May 20, 2016. Further, this case
20 and all pending motions should be re-referred to Magistrate Judge J. Richard Creatura for further
21 proceedings.

22 Accordingly, it is hereby **ORDERED** that:

- 23 • The Report and Recommendation (Dkt. 65) is **ADOPTED**;

- Plaintiff's *in forma pauperis* status is **REVOKED**.
- Not later than **May 13, 2016**, Plaintiff **MAY** pay the \$400.00 filing fee to the Clerk of the Court. If Plaintiff fails to pay the \$400 filing fee by **May 13, 2016**, the Court will dismiss this case.
- All pending motions **ARE RENOTED** to **May 20, 2016**, and
- This case **IS RE-REFERRED** to Magistrate Judge J. Richard Creatura for further proceedings.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 2nd day of May, 2016.



ROBERT J. BRYAN
United States District Judge