

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Schowachert v. Polley

Schowachert · No. 1:25-cv-0121 JLT BAM (PC) · Decided March 4, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted findings and recommendations concerning John Paul Frank Schowachert’s application to proceed in forma pauperis. Because Plaintiff had accumulated six qualifying strikes under 28 U.S.C. § 1915(g) and did not allege imminent danger of serious physical injury, the court denied in forma pauperis status and ordered him to pay the \$405 filing fee within 30 days or face dismissal without prejudice.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 JOHN PAUL FRANK SCHOWACHERT, Case No. 1:25-cv-0121 JLT BAM
(PC) 12 Plaintiff, ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING
13 v. PLAINTIFF’S APPLICATION TO PROCEED IN FORMA PAUPERIS, AND DIRECTING
14 BILL POLLEY, PLAINTIFF TO PAY THE FILING FEE WITHIN 30 DAYS 15 Defendant.

(Docs. 2, 7) 16 17 John Paul Frank Schowachert seeks to proceed in forma pauperis in this action,
in which 18 he alleges the defendant—the Tuolumne County Jail Commander—violated his civil
rights at the 19 jail. (Docs. 1, 2.) Reviewing Plaintiff’s litigation history, the magistrate judge
identified six 20 actions that qualified as strikes under 28 U.S.C. § 1915(g).

(Doc. 7 at 1-2, n.1.) In addition, the 21 magistrate judge found Plaintiff “failed to allege that he
was in any imminent danger of serious 22 physical injury at the time the complaint was filed.” (Id.
at 2.) Therefore, the magistrate judge 23 found the imminent danger exception to Section 1915
does not apply and recommended that the 24 Court deny the motion to proceed in forma pauperis.

(Id. at 2-3.) 25 The Court served the Findings and Recommendations on Plaintiff and notified him
that 26 any objections were due within 14 days. (Doc. 7 at 3.) The Court advised Plaintiff the
“failure to 27 file objections within the specified time may result in the waiver of the ‘right to
challenge the 28 magistrate’s factual findings’ on appeal.” (Id., quoting *Wilkerson v. Wheeler*, 772
F.3d 834, 838– 1 | 39 (th Cir.

2014).) Plaintiff did not file any objections and the time to do so has passed. 2 According to 28
U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 3 | Having carefully

reviewed the matter, the Court concludes the Findings and Recommendations 4 | are supported by the record and proper analysis.

Thus, the Court ORDERS: 5 1. The Findings and Recommendations filed on February 5, 2025 (Doc. 7) are 6 ADOPTED in full. 7 2. Plaintiff's motion to proceed in forma paupers (Doc. 2) is DENIED. 8 3. Within 30 days from the date of service of this order, Plaintiff SHALL pay in full 9 the \$405.00 filing fee if he wishes to proceed with his action. 10 Plaintiff is advised that failure to pay the required filing fee as ordered will result in 11 the dismissal of this action without prejudice.

12 B IT IS SO ORDERED. 4 Dated: _ March 4, 2025 Cerin | Tower TED STATES DISTRICT JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28