

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Dylan S. Corral v. Owens

Corral · No. 2:24-cv-0282 WBS AC P · Decided April 3, 2025

SUMMARY

The magistrate judge recommends dismissing without prejudice a prisoner’s 42 U.S.C. § 1983 action because the plaintiff was subject to the three-strikes bar under 28 U.S.C. § 1915(g), did not allege imminent danger, failed to elect whether to proceed or voluntarily dismiss, and did not pay the filing fee. The findings and recommendations advise that objections may be filed within fourteen days.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DYLAN S. CORRAL, No. 2:24-cv-0282 WBS AC P 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 OWENS, 15 Defendant. 16 17 Plaintiff is a state
prisoner proceeding without a lawyer, seeking relief pursuant to 42 18 U.S.C. § 1983. This action
was referred to the undersigned by Local Rule 302 pursuant to 28 19 U.S.C. § 636(b)(1).

20 On September 25, 2024, plaintiff filed a notice stating that the court had erred in granting 21 in
forma pauperis (“IFP”) status in this case because he is subject to the three strikes bar under 28 22
U.S.C. § 1915(g). ECF No. 6 at 1. “Plaintiff requests that all funds that the Court received as 23
payment to be returned to Plaintiff directly at the address on the record.” Id. at 1-2.

However, 24 plaintiff had neither requested leave to proceed IFP nor paid the filing fee. On
December 27, 25 2024, the undersigned confirmed that plaintiff has three strikes and must pay the
fee unless he is 26 “under imminent danger of serious physical injury.” See ECF No. 7 at 2 (citing
28 U.S.C. 27 § 1915(g)).

The court found that plaintiff had not alleged any facts which suggest that he is under 28 imminent
danger of serious physical injury, and thus would be required to submit the appropriate 1 | filing
fee to proceed with this action. Id. The court ordered that plaintiff submit, within twenty- 2 || one
days from the date of that order, a notice of election informing the court whether he wants to 3 ||
proceed or voluntarily dismiss this case.

Id. 4 The time for plaintiff to notify the court as to how he wishes to proceed has now passed, 5 ||
and plaintiff has not made an election, otherwise responded to the order, or paid the filing fee. 6
Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without 7 ||

prejudice. 8 These findings and recommendations are submitted to the United States District Judge 9 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 10 || after being served with these findings and recommendations, plaintiff may file written objections 11 | with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings 12 || and Recommendations.” Plaintiff is advised that failure to file objections within the specified 13 || time may waive the right to appeal the District Court’s order.

Martinez v. Ylst, 951 F.2d 1153 14 | (9th Cir. 1991). 15 || DATED: April 3, 2025 16 ~ 17 Htttenr—
Lhor—e_ ALLISON CLAIRE 18 UNITED STATES MAGISTRATE JUDGE 19 20 21 22 23 24
25 26 27 28