UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN W. DUNIGAN,

Plaintiff,

v.

LEE ANN LUNDY,

Defendant.

Case No. 2:26-cv-0285-DAD-JDP (P)

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner, brings this action alleging varied and unintelligible violations of his rights. ECF No. 5. He has moved to proceed *in forma pauperis*, ECF No. 12, but he is a "three-striker" within the meaning of Title 28 U.S.C. § 1915(g). Plaintiff has had at least three cases dismissed for failure to state a claim upon which relief can be granted. *See Dunigan v. CDCR*, No. 2:19-cv-2501-WBS-AC (E.D. Cal. Jan. 29, 2020) at ECF No. 9 at 3-4 (adopted at ECF No. 15). The court takes judicial notice of the following cases constituting strikes because each was dismissed for failure to state a claim: (1) *Dunigan v. United States*, 2:10-cv-2965-MCE-EFB (P), dismissed May 18, 2012, for failure to state a claim; (2) *Dunigan v. United States*, 2:10-

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cv-2992-JAM-KJN (P), dismissed May 2, 2011, as frivolous; (3) *Dunigan v. United States*, 2:12-cv-3048-TLN-CKD (P), dismissed September 16, 2013, for failure to file an amended complaint after operative complaint dismissed for failure to state a claim.

Plaintiff might be entitled to proceed *in forma pauperis* in spite of this status, if he alleged he was in imminent danger. His complaint is unintelligible and does not make this showing. The document consists of over one-hundred pages of unintelligible allegations ostensibly implicating a "government conspiracy to commit overreach as modus operandi for a 100 years stayed release." ECF No. 5 at 1.

Accordingly, it is RECOMMENDED that plaintiff's application to proceed *in forma pauperis*, ECF No. 12, be DENIED and plaintiff be directed to tender the filing fee within thirty days of any order adopting these recommendations.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Any such document should be captioned "Objections to Magistrate Judge's Findings and Recommendations," and any response shall be served and filed within fourteen days of service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *See Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: May 29, 2026

JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE