

APPENDIX "A"

JUDGE'S Adoption of Mag's F.o.R.

Dated: March 25, 2020

2-SHEETS

PG. #5

1-2-5

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 KEVIN DUNIGAN,

No. 2:19-cv-2501 WBS AC P

12 Plaintiff,

ORDER

14 || CDCR, et al.,

Defendants.

17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On February 27, 2020, the magistrate judge filed findings and recommendations herein
21 which were served on plaintiff and which contained notice to plaintiff that any objections to the
22 findings and recommendations were to be filed within fourteen days. ECF No. 18. Plaintiff has
23 filed objections to the findings and recommendations. ECF No. 20.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
25 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
26 court finds the findings and recommendations to be supported by the record and by proper
27 analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed February 27, 2020, ECF No. 18, are adopted
3 in full; and

4 2. The complaint is dismissed without leave to amend as frivolous and for failure to state
5 a claim.

6 Dated: March 25, 2020



7 WILLIAM B. SHUBB

8 UNITED STATES DISTRICT JUDGE

9 /duni2501.804(3)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JUDGMENT IN A CIVIL CASE

KEVIN DUNIGAN,

CASE NO: 2:19-CV-02501-WBS-AC

v.

CDCR, ET AL.,

Decision by the Court. This action came before the Court. The issues have been tried, heard or decided by the judge as follows:

IT IS ORDERED AND ADJUDGED

THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE
COURT'S ORDER FILED ON 3/26/2020

Keith Holland
Clerk of Court

ENTERED: March 26, 2020

by: /s/ A. Kastilahn

Deputy Clerk

Vincent Kloster Gov. Texas 250 men
Lt. Gov. Jarvis Baker 250 men

Glen Amos Gov. New York 250 men
Bobby McFender Lt. Gov. 250 men

Melvin Sprules Gov. Pennsylvania
Charles Carter Jr. Lt. Gov. 250 men

Charles Carter Sr. Gov. Maryland
Julian Hill Lt. Gov. 250 men

Recking Ball Gov. Nevada 250 men
V.P. of San Fran. Lt. Gov. 250 men

Glen Kert Gov. Washington 250 men
Oakland Butler Lt. Gov. 250 men

Michael Hall Gov. Louisiana
Walter Bryant Lt. Gov. 250 men

Tyrone Bryant Gov. Oregon

David Journey Lt. Gov. 250 men

Terrill Robinson Gov. Idaho
Timmy Robinson Lt. Gov. 250 men

Maxi Blood Robinson Gov. Indiana
"Tee" Nelson Lt. Gov. 250 men

250 men New Mexico
Ronnie Robinson 125 Gov.
Alley Cat Lt. Gov. 125

Massachusetts 250 men
Terron Hall Gov. 125
Butch Hall Lt. Gov. 125

Alaska 250 men
Leo Adrean Gov. 125 men
Jethro Ahearn Lt. Gov. 125 men

Florida 250 men
Cobra Papa Gov. 125 men
David Cassarre Lt. Gov. 125 men

So. Carolina 250 men
Bruce Calloway Gov. 125

Dino Johnson Lt. Gov. 125 men

Illinois 250 men
Pete Cassarre Gov. 125
Cobra Mann Lt. Gov. 125 men

North Carolina 250 men
Anthony Hope Gov. 125 men
Kuja Nelson Lt. Gov. 125 men

Hawaii 250 men
Raven San Fran. Gov. 125 men
Terry Simpson Lt. Gov. 125 men

Montana 250 men
Joe Williams Gov. 125 men
Pete Brown Lt. Gov. 125 men

Rhode Island 1250 men

Gov. Kenny Bolles 125 men

Lt. Gov. John Webb 125 men

ARKANSAS 1250 men

Allen Brown 125 men

Tyrone McCall 125 men

Gov. Allen / Lt. Gov. Tyrone

Kentucky 1250 men Gov.

London Monroe 125 men

S. F. Ken / Oakdale ^{Lt. Gov.} 125 men

IDAHO 1250 men Gov.

Levi Alexander 125 men

Batu "Doe" 125 men ^{Lt. Gov.}

Lt. Gov.

Alabama 1250 men Gov.

Ivan Bro-In-Law 125 men

Lt. Gov. Leman Dunigan 125 men ^{Lt. Gov.}

OHIO 1250 men

Gov. Dickey ^{Gov.} Dunigan 125 men

Lt. Gov. Mike Bynum 125 men

MICHIGAN 1250 men

Gov. Joe Cummings 125 men

Lt. Gov. Stanly Moten

125 men

NEW JERSEY 1250 men

Gov. Vincent Schaffer 125 men

Lt. Gov. Amos "Doe" 125 men

Georgia 1250 men

Gov. Mark Caroona 125 men

Lt. Gov. Dino Johnson 125 men

Colorado 150 men

Gov. Kevin Scrivens 125 men

Lt. Gov. Thelma Humphrey 125 men

Tennessee 1250 men

Gov. Willie Blake Jr 125 men

Lt. Gov. Everett Brown 125 men

Porto Rico 350 men

Gov. David Cassarez 175 men

Lt. Gov. Mario Rutledge 175 men

Connecticut 1250 men 125 men

Gov. Rayden ^{aka} "Doe" S. F. Calif.

Lt. Gov. Eldridge Brown ^{aka} Sacto. 125 men

Wyoming 1250 men

Gov. Paul Passmore 125 men

Lt. Gov. Charles Grim 125 men

Delaware 1250 men

Glen Taylor Gov. 125 men

Bruce Vanhook Lt. Gov. 125 men

Washington D. C. 150 men

Gov. O. C. Hummerdy 75 men

Lt. Gov. Omar Johnson 75 men

4/10/91

Utah 250 men

Gov. Demtrir Hall 125 men

Lt. Gov. Steve Echols 125 men

Kansas 250 men

Gov. Mark Parker 125 men

Lt. Gov. Keith Dandridge 125 men

Oklahoma 250 men

Gov. Gene Murray Jr. 125 men

Lt. Gov. Marcus Davis 125 men

Nebraska 250 men

Gov. Edgar Klootjen 125 men

Lt. Gov. Leonell Owens 125 men

Wisconsin 250

Gov. London Morris 125 men

Lt. Gov. Walter Banks 125 men

Minnesota 250 men

Gov. Ronald Klootjen 125 men

Lt. Gov. Kevin Washington 125 men

Missouri 250 men

Gov. Paul Paschmore 125 men

Lt. Gov. Keith Brembi 125 men

Mississippi 250 men

Gov. Kevin Martin 125 men

Lt. Gov. Dino Gomez 125 men

Maine 250 men

Gov. Fred Mackie 125 men

Lt. Gov. Ralph Deloin 125 men

New Hampshire 250 men

Gov. Carlos Hernandez 125 men

Lt. Gov. Mike Broussard 125 men

North Dakota 250 men

Gov. Michael Brown 125 men

Lt. Gov. Carlos "Doe" 125 men

Arizona 250 men

Gov. Yancy Butler 125 men

Lt. Gov. Fly One 125 men

South Dakota 250 men

Gov. Robert Ball 125 men

Lt. Gov. Sean Dockery 125 men

Virginia 250 men

Gov. Eric Alston 125 men

Lt. Gov. Eric Bell 125 men

West Virginia 250 men

Gov. Wandy Bell 125 men

Lt. Gov. Matthew Hines 125 men

Vermont 250 men

Gov. Jesse Davis 125 men

Lt. Gov. Ivan "No Eye Browed" 125 men

APPENDIX "B"

Mag.'s F. & R. dated Feb. 26, 2020

5-SHEETS

Pg. #5

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 KEVIN DUNIGAN,

No. 2:19-cv-2501 WBS ACP

12 Plaintiff,

ORDER AND FINDINGS AND RECOMMENDATIONS

14 || CDCR, et al.,

15 Defendants.

17 Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983 and
18 has paid the filing fee.

I. Statutory Screening of Prisoner Complaints

20 The court is required to screen complaints brought by prisoners seeking relief against a
21 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
22 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are
23 “frivolous, malicious, or fail[] to state a claim upon which relief may be granted,” or that “seek[]
24 monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b).

25 A claim “is [legally] frivolous where it lacks an arguable basis either in law or in fact.”
26 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
27 Cir. 1984). “[A] judge may dismiss . . . claims which are ‘based on indisputably meritless legal
28 theories’ or whose ‘factual contentions are clearly baseless.’” Jackson v. Arizona, 885 F.2d 639.

1 640 (9th Cir. 1989) (quoting Neitzke, 490 U.S. at 327), superseded by statute on other grounds as
2 stated in Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)). The critical inquiry is whether a
3 constitutional claim, however inartfully pleaded, has an arguable legal and factual basis.
4 Franklin, 745 F.2d at 1227-28 (citations omitted).

5 “Federal Rule of Civil Procedure 8(a)(2) requires only ‘a short and plain statement of the
6 claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair notice of
7 what the . . . claim is and the grounds upon which it rests.’” Bell Atl. Corp. v. Twombly, 550
8 U.S. 544, 555 (2007) (alteration in original) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).
9 “Failure to state a claim under § 1915A incorporates the familiar standard applied in the context
10 of failure to state a claim under Federal Rule of Civil Procedure 12(b)(6).” Wilhelm v. Rotman,
11 680 F.3d 1113, 1121 (9th Cir. 2012) (citations omitted). In order to survive dismissal for failure
12 to state a claim, a complaint must contain more than “a formulaic recitation of the elements of a
13 cause of action;” it must contain factual allegations sufficient “to raise a right to relief above the
14 speculative level.” Twombly, 550 U.S. at 555 (citations omitted). “[T]he pleading must contain
15 something more . . . than . . . a statement of facts that merely creates a suspicion [of] a legally
16 cognizable right of action.” Id. (alteration in original) (quoting 5 Charles Alan Wright & Arthur
17 R. Miller, Federal Practice and Procedure § 1216 (3d ed. 2004)).

18 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to
19 relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting
20 Twombly, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual
21 content that allows the court to draw the reasonable inference that the defendant is liable for the
22 misconduct alleged.” Id. (citing Twombly, 550 U.S. at 556). In reviewing a complaint under this
23 standard, the court must accept as true the allegations of the complaint in question, Hosp. Bldg.
24 Co. v. Trs. of the Rex Hosp., 425 U.S. 738, 740 (1976) (citation omitted), as well as construe the
25 pleading in the light most favorable to the plaintiff and resolve all doubts in the plaintiff’s favor,
26 Jenkins v. McKeithen, 395 U.S. 411, 421 (1969) (citations omitted).

27 II. Complaint

28 The complaint names ninety-six defendants, including individuals and both private and

1 government entities; spans over one hundred pages, not including exhibits; and appears to be a
2 jumble of multiple other filings.¹ ECF No. 1. Review of the complaint shows that it does not
3 state any claims against any of the defendants and instead is comprised primarily of citations to
4 various statutes, rules, and Bible verses. Id. To the extent the complaint makes any allegations,
5 they are rambling, nearly incomprehensible accusations of a far-reaching conspiracy by
6 “homosexual liberals” to subject plaintiff to psychological abuse for “the purposes of gas lighting
7 plaintiff’s mental stability” and to punish him “for not accepting their criminal homosexual
8 lifestyle” because of “plaintiff’s own personal religious fundamental beliefs against
9 homosexuality.” Id. at 30-33. He makes further allegations that his previous complaints have
10 been dismissed because he has been selectively targeted “as a form of gay liberal political
11 democratic reprisal” and it appears that he is also claiming to have been convicted “with
12 fraudulent and contaminated DNA” as part of some conspiracy tied to President Obama and the
13 November 2008 election. Id. at 35-37.

14 Plaintiff also makes general allegations that former and current governors Brown and
15 Newsom have conspired with California Department of Corrections and Rehabilitation
16 administration to arbitrarily deny his inmate appeals and prevent him from going to the law
17 library so that he is unable to reveal political corruption and “in order to give the media time to
18 abuse the subliminal messaging system too [sic] gain access in the . . . new universal Christ
19 Kingdom although the media’s prime intent is to aid the plight of the corrupt homosexual liberal
20 democratic progressive movement.” Id. at 41-46, 48-57. He appears to go on to allege that he is
21 the sovereign ruler of the universal Christ Kingdom and that these actions are an attempt to take
22 over his throne, and that there have been attempts to murder him by housing him “with gay
23 inmate operatives.” Id. at 63-65, 71.

24 The allegations in plaintiff’s complaint do not present plausible factual allegations or
25 legally coherent theories of liability establishing a claim for relief. These claims should therefore
26 be dismissed. Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (“[A] court may dismiss a claim

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28 ¹ It appears that plaintiff may have written his complaint on the back of other documents,
resulting in those documents being included in the complaint.

1 as factually frivolous only if the facts alleged are ‘clearly baseless,’ a category encompassing
2 allegations that are ‘fanciful,’ ‘fantastic,’ and ‘delusional.’” (internal citations omitted)).

3 III. No Leave to Amend

4 If the court finds that a complaint or claim should be dismissed for failure to state a claim,
5 the court has discretion to dismiss with or without leave to amend. Leave to amend should be
6 granted if it appears possible that the defects in the complaint could be corrected, especially if a
7 plaintiff is pro se. Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc); Cato v.
8 United States, 70 F.3d 1103, 1106 (9th Cir. 1995) (“A pro se litigant must be given leave to
9 amend his or her complaint, and some notice of its deficiencies, unless it is absolutely clear that
10 the deficiencies of the complaint could not be cured by amendment.” (citing Noll v. Carlson, 809
11 F.2d 1446, 1448 (9th Cir. 1987))). However, if, after careful consideration, it is clear that a claim
12 cannot be cured by amendment, the court may dismiss without leave to amend. Cato, 70 F.3d at
13 1105-06.

14 The undersigned finds that, as set forth above, plaintiff’s complaint is frivolous and fails
15 to state a claim. Moreover, given the nature of plaintiff’s claims, there is no way for plaintiff to
16 amend the complaint to state a claim for which relief can be granted and leave to amend would be
17 futile. “A district court may deny leave to amend when amendment would be futile.” Hartmann
18 v. CDCR, 707 F.3d 1114, 1130 (9th Cir. 2013).

19 IV. Motion for Extension of Time

20 Plaintiff has filed a motion that appears to seek additional time to pay the filing fee. ECF
21 No. 17. The motion will be denied as moot because the filing fee was paid on February 13, 2020.

22 V. Motion for Media Investigation

23 Plaintiff has also filed a motion that appears to request an order from the court initiating a
24 media investigation and releasing plaintiff from custody. ECF No. 12. The contents of the
25 motion are incomprehensible and it will therefore be denied.

26 VI. Plain Language Summary of this Order for a Pro Se Litigant

27 It is being recommended that your complaint be dismissed without leave to amend
28 because it is frivolous and fails to state a claim for relief.

1 Accordingly, IT IS HEREBY ORDERED that:

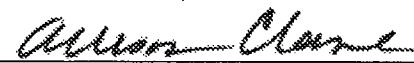
2 1. Plaintiff's motion for an extension of time to pay the filing fee, ECF No. 17, is
3 DENIED as moot.

4 2. Plaintiff's motion for media investigation, ECF No. 12, is DENIED.

5 IT IS FURTHER RECOMMENDED that complaint be dismissed without leave to amend
6 as frivolous and for failure to state a claim.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, plaintiff may file written objections
10 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
11 and Recommendations." Plaintiff is advised that failure to file objections within the specified
12 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
13 (9th Cir. 1991).

14 DATED: February 26, 2020

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16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE

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APPENDIX "C"

Judge's Initial Adoption of
Mag.'s F. & R. dated Jan. 28, 2020

2-SHEETS

Pg. # 5

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN DUNIGAN,

No. 2:19-cv-2501 WBS AC P

Plaintiff,

ORDER

CDCR, et al.,

Defendants.

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 9, 2020, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. ECF No. 9. Plaintiff has filed objections to the findings and recommendations. ECF No. 13.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed January 9, 2020, are adopted in full; and
3 2. Plaintiff's motion to proceed in forma pauperis, ECF No. 3, is denied and plaintiff is
4 ordered to pay the entire \$400.00 in required fees within thirty days or face dismissal of the case.

5 Dated: January 28, 2020



6 WILLIAM B. SHUBB

7 UNITED STATES DISTRICT JUDGE

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APPENDIX "D"

Mag.'s F. & R. dated Dec. 19, 2019

4-SHEETS

PG. #5

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 || KEVIN DUNIGAN,

No. 2:19-cv-2501 ACP

12 Plaintiff,

ORDER AND FINDINGS AND RECOMMENDATIONS

14 || CDCR, et al.,

15 Defendant.

17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42
18 U.S.C. § 1983.

19 I. Three Strikes Analysis

20 Plaintiff seeks leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). ECF No. 3.
21 The Prison Litigation Reform Act of 1995 (PLRA) permits any court of the United States to
22 authorize the commencement and prosecution of any suit without prepayment of fees by a person
23 who submits an affidavit indicating that the person is unable to pay such fees. However,

24 [i]n no event shall a prisoner bring a civil action or appeal a
25 judgement in a civil action or proceeding under this section if the
26 prisoner has, on 3 or more occasions, while incarcerated or detained
27 in any facility, brought an action or appeal in a court of the United
States that was dismissed on the grounds that it is frivolous,
malicious, or fails to state a claim upon which relief may be granted,
unless the prisoner is under imminent danger of serious physical
injury.

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1 28 U.S.C. § 1915(g). The plain language of the statute makes clear that a prisoner is precluded
2 from bringing a civil action or an appeal in forma pauperis if the prisoner has brought three
3 frivolous actions and/or appeals (or any combination thereof totaling three). Rodriguez v. Cook,
4 169 F.3d 1176, 1178 (9th Cir. 1999). “[Section] 1915(g) should be used to deny a prisoner’s [in
5 forma pauperis] status only when, after careful evaluation of the order dismissing an action, and
6 other relevant information, the district court determines that the action was dismissed because it
7 was frivolous, malicious or failed to state a claim.” Andrews v. King, 398 F.3d 1113, 1121 (9th
8 Cir. 2005). “[W]hen a district court disposes of an in forma pauperis complaint ‘on the grounds
9 that [the claim] is frivolous, malicious, or fails to state a claim upon which relief may be granted,
10 such a complaint is ‘dismissed’ for purposes of § 1915(g) even if the district court styles such
11 dismissal as denial of the prisoner’s application to file the action without prepayment of the full
12 filing fee.” O’Neal v. Price, 531 F.3d 1146, 1153 (9th Cir. 2008) (second alteration in original).
13 Dismissal also counts as a strike under § 1915(g) “when (1) a district court dismisses a complaint
14 on the ground that it fails to state a claim, (2) the court grants leave to amend, and (3) the plaintiff
15 then fails to file an amended complaint” regardless of whether the case was dismissed with or
16 without prejudice. Harris v. Mangum, 863 F.3d 1133, 1142-43 (9th Cir. 2017).

17 Inspection of other cases filed by plaintiff in this court has led to the identification of at
18 least three cases brought by plaintiff that qualify as strikes. The court takes judicial notice of the
19 following lawsuits filed by plaintiff:¹

20 1. Dunigan v. California Department of Corrections, E.D. Cal. No. 2:01-cv-1591 WBS JFM
21 (complaint dismissed with leave to amend for failure to state a claim, case dismissed on
22 March 29, 2002, for failure to file an amended complaint);

23 ////

24 ////

25 ¹ The court “may take notice of proceedings in other courts, both within and without the federal
26 judicial system, if those proceedings have a direct relation to matters at issue.” United States ex
27 rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992)
28 (citation and internal quotation marks omitted) (collecting cases); Fed. R. Evid. 201(b)(2) (court
may take judicial notice of facts that are capable of accurate determination by sources whose
accuracy cannot reasonably be questioned).

1 2. Dunigan v. United States, E.D. Cal. No. 2:10-cv-2992 JAM KJN (case dismissed as
2 frivolous on May 2, 2011);
3 3. Dunigan v. United States, E.D. Cal. No. 2:12-cv-3048 TLN CKD (complaint dismissed
4 with leave to amend for failure to state a claim; case dismissed on September 16, 2013, for
5 failure to file an amended complaint).

6 All of the preceding cases were dismissed well in advance of the December 8, 2019 filing²
7 of the instant action and none of the strikes have been overturned. Therefore, this court finds that
8 plaintiff is precluded from proceeding in forma pauperis unless she is “under imminent danger of
9 serious physical injury.” 28 U.S.C. § 1915(g). To satisfy the exception, plaintiff must have
10 alleged facts that demonstrate that she was “under imminent danger of serious physical injury” at
11 the time of filing the complaint. Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)
12 (“[I]t is the circumstances at the time of the filing of the complaint that matters for purposes of
13 the ‘imminent danger’ exception to § 1915(g).”); see also, Abdul-Akbar v. McKelvie, 239 F.3d
14 307, 312-14 (3rd Cir. 2001); Medberry v. Butler, 185 F.3d 1189, 1192-93 (11th Cir. 1999);
15 Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998); Banos v. O’Guin, 144 F.3d 883, 885 (5th
16 Cir. 1998).

17 The complaint names ninety-six defendants, including individuals and both private and
18 government entities, and makes allegations regarding plaintiff’s conviction, his ability to use the
19 administrative appeals process, interference with previous lawsuits, unspecified retaliation, and
20 various conspiracies. However, none of the allegations demonstrate an imminent risk of serious
21 physical injury at the time of filing, and the undersigned will therefore recommend that plaintiff
22 be required to pay the filing fee in full or have the complaint dismissed.

23 II. Plain Language Summary of this Order for a Pro Se Litigant

24 You have at least three strikes under § 1915(g) and cannot be granted in forma pauperis
25 status unless you show the court that you were in imminent danger of serious physical injury at
26 the time you filed the complaint. You have not shown that you were in imminent danger of

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28 ² Since plaintiff is a prisoner proceeding pro se, she is afforded the benefit of the prison mailbox
rule. Houston v. Lack, 487 U.S. 266, 276 (1988).

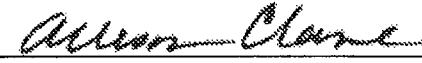
1 serious physical injury and so it is being recommended that your motion to proceed in forma
2 pauperis be denied.

3 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
4 assign a United States District Judge to this action.

5 IT IS FURTHER RECOMMENDED that plaintiff's motion to proceed in forma pauperis
6 (ECF No. 3) be denied and plaintiff be ordered to pay the entire \$400.00 in required fees within
7 thirty days or face dismissal of the case.

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: December 19, 2019

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE

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APPENDIX "E"

Mag.'s Initial F.o.R. dated Jan. 8, 2020

5-SHEETS

Pg. #5

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 KEVIN DUNIGAN,
12 Plaintiff,
13 v.
14 CDCR, et al.,
15 Defendant.
No. 2:19-cv-2501 WBS AC P
ORDER AND FINDINGS AND
RECOMMENDATIONS

ORDER AND FINDINGS AND RECOMMENDATIONS

17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42
18 U.S.C. § 1983. On December 20, 2019, the undersigned filed findings and recommendations that
19 recommended plaintiff's motion to proceed in forma pauperis be denied on the ground that
20 plaintiff had accrued three strikes under 28 U.S.C. § 1915(g). ECF No. 5. Plaintiff has objected
21 to the findings and recommendations on the ground that one of the cases identified, Dunigan v.
22 California Department of Corrections, E.D. Cal. No. 2:01-cv-1591 WBS JFM, is not a strike
23 because he was not incarcerated at the time he filed the complaint in that case. ECF No. 7 at 1-2.
24 He does not raise any objections related to the other two cases identified as strikes or to the
25 finding that he failed to allege facts demonstrating imminent danger of serious physical injury.

26 Assuming that plaintiff was not in custody at the time he filed the complaint in Case No.
27 2:01-cv-1591 WBS JFM, he is correct that that case cannot count as a strike. The December 20,
28 2019 findings and recommendations will therefore be withdrawn. However, the court has

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1 identified another case, Dungan v. United States, E.D. Cal. No. 2:10-cv-2965 MCE EFB, which
2 was clearly initiated while plaintiff was incarcerated and was dismissed on grounds that constitute
3 a strike. Accordingly, the undersigned will once again recommend that plaintiff's motion to
4 proceed in forma pauperis be denied.

5 Also pending before the court is plaintiff's motion for miscellaneous relief styled as a
6 "sovereign motion invoking global street kraft upon stayed release and criminal enforcements."
7 ECF No. 6. The motion states that it "arises [sic] out of a dual intentionally false and erroneous
8 Sacto., County convictions . . . both of which are 'freestanding actual innocence claims.'" Id. at
9 1. The motion appears to be a mishmash of multiple motions and documents covering a variety
10 of issues and is comprised predominately of citations to various statutes without any cognizable
11 request for relief. The motion will therefore be denied.

12 I. Three Strikes Analysis

13 Plaintiff seeks leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). ECF No. 3.
14 The Prison Litigation Reform Act of 1995 (PLRA) permits any court of the United States to
15 authorize the commencement and prosecution of any suit without prepayment of fees by a person
16 who submits an affidavit indicating that the person is unable to pay such fees. However,

17 [i]n no event shall a prisoner bring a civil action or appeal a
18 judgement in a civil action or proceeding under this section if the
19 prisoner has, on 3 or more occasions, while incarcerated or detained
20 in any facility, brought an action or appeal in a court of the United
21 States that was dismissed on the grounds that it is frivolous,
22 malicious, or fails to state a claim upon which relief may be granted,
23 unless the prisoner is under imminent danger of serious physical
24 injury.

25 28 U.S.C. § 1915(g). The plain language of the statute makes clear that a prisoner is precluded
26 from bringing a civil action or an appeal in forma pauperis if the prisoner has brought three
27 frivolous actions and/or appeals (or any combination thereof totaling three). Rodriguez v. Cook,
28 169 F.3d 1176, 1178 (9th Cir. 1999). "[Section] 1915(g) should be used to deny a prisoner's [in
forma pauperis] status only when, after careful evaluation of the order dismissing an action, and
other relevant information, the district court determines that the action was dismissed because it
was frivolous, malicious or failed to state a claim." Andrews v. King, 398 F.3d 1113, 1121 (9th

1 Cir. 2005). “[W]hen a district court disposes of an in forma pauperis complaint ‘on the grounds
2 that [the claim] is frivolous, malicious, or fails to state a claim upon which relief may be granted,’
3 such a complaint is ‘dismissed’ for purposes of § 1915(g) even if the district court styles such
4 dismissal as denial of the prisoner’s application to file the action without prepayment of the full
5 filing fee.” O’Neal v. Price, 531 F.3d 1146, 1153 (9th Cir. 2008) (second alteration in original).
6 Dismissal also counts as a strike under § 1915(g) “when (1) a district court dismisses a complaint
7 on the ground that it fails to state a claim, (2) the court grants leave to amend, and (3) the plaintiff
8 then fails to file an amended complaint” regardless of whether the case was dismissed with or
9 without prejudice. Harris v. Mangum, 863 F.3d 1133, 1142-43 (9th Cir. 2017).

10 Inspection of other cases filed by plaintiff in this court has led to the identification of at
11 least three cases brought by plaintiff that qualify as strikes. The court takes judicial notice of the
12 following lawsuits filed by plaintiff:¹

- 13 1. Dunigan v. United States, E.D. Cal. No. 2:10-cv-2965 MCE EFB (first amended
14 complaint dismissed on May 18, 2012, without leave to amend for failure to comply with
15 Federal Rule of Civil Procedure 8 where findings and recommendations included explicit
16 finding that complaint failed to state a claim, appeared to be frivolous, and “lacks merit
17 and ‘cannot possibly be saved’”);²
- 18 2. Dunigan v. United States, E.D. Cal. No. 2:10-cv-2992 JAM KJN (case dismissed as
19 frivolous on May 2, 2011);

20 ////

21 ////

22

23 ¹ The court “may take notice of proceedings in other courts, both within and without the federal
24 judicial system, if those proceedings have a direct relation to matters at issue.” United States ex
rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992)
25 (citation and internal quotation marks omitted) (collecting cases); Fed. R. Evid. 201(b)(2) (court
26 may take judicial notice of facts that are capable of accurate determination by sources whose
accuracy cannot reasonably be questioned).

27 ² Dismissal under Rule 8 can count as a strike where the underlying rationale for the Rule 8
28 dismissal is one of the three categories outlined in § 1915(g). Knapp v. Hogan, 738 F.3d 1106,
1109-10 (9th Cir. 2013).

1 3. Dunigan v. United States, E.D. Cal. No. 2:12-cv-3048 TLN CKD (complaint dismissed
2 with leave to amend for failure to state a claim, and case dismissed on September 16,
3 2013, for failure to file an amended complaint).

4 All of the preceding cases were dismissed well in advance of the December 8, 2019 filing³
5 of the instant action and none of the strikes have been overturned. Therefore, this court finds that
6 plaintiff is precluded from proceeding in forma pauperis unless she is “under imminent danger of
7 serious physical injury.” 28 U.S.C. § 1915(g). To satisfy the exception, plaintiff must have
8 alleged facts that demonstrate that she was “under imminent danger of serious physical injury” at
9 the time of filing the complaint. Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)
10 (“[I]t is the circumstances at the time of the filing of the complaint that matters for purposes of
11 the ‘imminent danger’ exception to § 1915(g).”); see also, Abdul-Akbar v. McKelvie, 239 F.3d
12 307, 312-14 (3rd Cir. 2001); Medberry v. Butler, 185 F.3d 1189, 1192-93 (11th Cir. 1999);
13 Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998); Banos v. O’Guin, 144 F.3d 883, 885 (5th
14 Cir. 1998).

15 The complaint names ninety-six defendants, including individuals and both private and
16 government entities, and makes allegations regarding plaintiff’s conviction, his ability to use the
17 administrative appeals process, interference with previous lawsuits, unspecified retaliation, and
18 various conspiracies. However, none of the allegations demonstrate an imminent risk of serious
19 physical injury at the time of filing, and the undersigned will therefore recommend that plaintiff
20 be required to pay the filing fee in full or have the complaint dismissed.

21 II. Plain Language Summary of this Order for a Pro Se Litigant

22 You have at least three strikes under § 1915(g) and cannot be granted in forma pauperis
23 status unless you show the court that you were in imminent danger of serious physical injury at
24 the time you filed the complaint. You have not shown that you were in imminent danger of
25 serious physical injury and so it is being recommended that your motion to proceed in forma
26 pauperis be denied.

27

³ Since plaintiff is a prisoner proceeding pro se, she is afforded the benefit of the prison mailbox
28 rule. Houston v. Lack, 487 U.S. 266, 276 (1988).

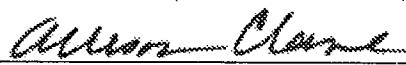
1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Plaintiff's motion for miscellaneous relief, ECF No. 6, is denied.
3 2. The December 20, 2019 findings and recommendations, ECF No. 5, are withdrawn.

4 IT IS FURTHER RECOMMENDED that plaintiff's motion to proceed in forma pauperis,
5 ECF No. 3, be denied and plaintiff be ordered to pay the entire \$400.00 in required fees within
6 thirty days or face dismissal of the case.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, plaintiff may file written objections
10 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
11 and Recommendations." Plaintiff is advised that failure to file objections within the specified
12 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
13 (9th Cir. 1991).

14 DATED: January 8, 2020

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16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE

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PART I

APPENDIX "F"

Ninth Circuit's Time Schedule ORDER

Dated: April 21, 2020

2-Sheets

PG #'s

1

1-2

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 21 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

Plaintiff - Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; CSP-LOS
ANGELES COUNTY; BOARD OF
PRISON TERMS; DEBBIE
ASUNCION, Warden; SUSAN
MORRIS; S. LEWIS; A. SWEABY;
UNITED STATES OF AMERICA;
DONALD J. TRUMP; EDMUND G.
BROWN, Jr.; K. ESTRADA; G.
STRATMAN; M. FORDHAM; A.
OJEDA; S. RIVERA; A. MARTINEZ;
CRAIG S. MEYERS; N. MARQUEZ; J.
CURIEL; SCOTT KERNAN; RIOS;
WILLIAMS; ROCHIE; FRIEDMAN;
BENJAMIN T. RICE; R. BRANCH;
MOZ; KOUZMITCH; JOHN SOTO; R.
C. JOHNSON, Warden; J. CLARK
KELSO, CALIFORNIA, et. al.,

Defendants - Appellees.

No. 20-15723

D.C. No. 2:19-cv-02501-WBS-AC
U.S. District Court for Eastern
California, Sacramento

TIME SCHEDULE ORDER

Duly incorporating all parties, ECF No. 1, p. 1-3; 9th Cir. R. 3-3; F.R. Evid. R. 104.; R. 806.; Bourjaily, 107 F.3d, at 2777-2781 served on all parties, 9th Cir. R. 32-1, to wit: 93 DEFENDANTS..

The parties shall meet the following time schedule.

Mon., June 15, 2020

Exhibit "D"

Appellant's opening brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

Failure of the appellant to comply with the Time Schedule Order will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1.

Appellants without representation of counsel in a prisoner appeal may have their case submitted on the briefs and record without oral argument, pursuant to FRAP 34(a).

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Jessica Poblete Dela Cruz
Deputy Clerk
Ninth Circuit Rule 27-7

PART II

APPENDIX "F"

Ninth Circuit Court of U.S. Appeals

REFERRAL NOTICE of April 24, 2020

2-SHEETS

Page #'s

1
A

1-2

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 24 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

No. 20-15723

Plaintiff - Appellant,

D.C. No. 2:19-cv-02501-WBS-AC

v.

U.S. District Court for Eastern
California, Sacramento

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

REFERRAL NOTICE

Defendants - Appellees.

This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also* *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).

If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. App. P. 24(a).

This referral shall not affect the briefing schedule previously established by this court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Cyntharee K. Powells
Deputy Clerk
Ninth Circuit Rule 27-7

APPENDIX "G"

U.S.D.C. East. Dist. of Calif.

Court of Appeals No. 20-15723 ORDER/

April 24, 2020

3-SHEETS

Page #15

1-9

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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11

12 KEVIN W. DUNIGAN,
Plaintiff,

V.

15 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
et al.,

16 Defendants.

No. 2:19-cv-2501 WBS-AC

Court of Appeals No. 20-15723
ORDER

17

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19

20 Ninth Circuit for the limited purpose of determining whether in
21 forma pauperis status should continue for defendant on appeal or
22 whether the appeal is frivolous or taken in bad faith. For the
23 following reasons, the court finds that the appeal is frivolous.

24

1915A(a), Magistrate Judge Allison Claire found that the allegations in the complaint failed to present plausible factual allegations or legally coherent theories of liability

28

1 establishing a claim for relief. As Judge Claire pointed out,
2 the complaint named ninety-six defendants, including individuals
3 and both private and government entities; spanned over one
4 hundred pages, not including exhibits; and appeared to be a
5 jumble of multiple other filings. The complaint did not state
6 any claims against any of the defendants. Instead it was
7 comprised primarily of citations to various statutes, rules, and
8 Bible verses.

9 To the extent the complaint made any allegations, they
10 were rambling, nearly incomprehensible accusations of a far-
11 reaching conspiracy by "homosexual liberals" to subject plaintiff
12 to psychological abuse for "the purposes of gas lighting
13 plaintiff's mental stability" and to punish him "for not
14 accepting their criminal homosexual lifestyle" because of
15 "plaintiff's own personal religious fundamental beliefs against
16 homosexuality."

17 Plaintiff also made general allegations that former and
18 current governors Brown and Newsom conspired with California
19 Department of Corrections and Rehabilitation administration to
20 arbitrarily deny his inmate appeals and prevent him from going to
21 the law library so that he is unable to reveal political
22 corruption and "in order to give the media time to abuse the
23 subliminal messaging system too [sic] gain access in the . . .
24 new universal Christ Kingdom although the media's prime intent is
25 to aid the plight of the corrupt homosexual liberal democratic
26 progressive movement."

27 Plaintiff appeared to go on to allege that he is the
28 sovereign ruler of the universal Christ Kingdom and that these

1 actions are an attempt to take over his throne, and that there
2 have been attempts to murder him by housing him "with gay inmate
3 operatives."

4 Accordingly, Judge Claire recommended that the
5 complaint be dismissed as legally frivolous. Judge Claire also
6 recommended that the dismissal be without leave to amend because,
7 given the nature of plaintiff's claims, there was no way for
8 plaintiff to amend to state a claim upon which could be granted
9 and leave to amend would be futile. (Docket No. 18). This court
10 agreed and adopted the Magistrate Judge's Findings and
11 Recommendations in full. (Docket No. 22).

12 For the foregoing reasons, this court concludes that
13 plaintiff's appeal is frivolous and that forma pauperis status
14 should not continue for defendant on appeal. A copy of this
15 Order shall be delivered by the Clerk of this court to the Clerk
16 of the United States Court of Appeals for the Ninth Circuit.

17 IT IS SO ORDERED.

18
19 Dated: April 24, 2020


20 WILLIAM B. SHUBB
21 UNITED STATES DISTRICT JUDGE
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APPENDIX "H"

Ninth Circuit Court of U.S. Appeals
ORDER / May 5, 2020

2 - SHEETS

Page #15

1

1-2

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 05 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

Plaintiff - Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

Defendants - Appellees.

No. 20-15723

D.C. No. 2:19-cv-02501-WBS-AC
U.S. District Court for Eastern
California, Sacramento

ORDER

A review of this court's docket reflects that the filing and docketing fees for this appeal remain due. Within 21 days after the date of this order, appellant shall pay to the district court the \$505.00 filing and docketing fees for this appeal and file in this court proof of such payment or file in this court a motion to proceed in forma pauperis.

The filing of a motion to proceed in forma pauperis will automatically stay the briefing schedule under Ninth Circuit Rule 27-11.

The Clerk shall serve a Form 4 financial affidavit on appellant.

If appellant fails to comply with this order, this appeal may be dismissed by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Cyntharee K. Powells
Deputy Clerk
Ninth Circuit Rule 27-7

APPENDIX I

Ninth Circuit Court of U.S. Appeals
Denial Order

2-Sheets

Page #15

1

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 14 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

Plaintiff-Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

Defendants-Appellees.

No. 20-15723

D.C. No.
2:19-cv-02501-WBS-AC
Eastern District of California,
Sacramento

ORDER

A review of the record reflects that this appeal may be frivolous. This court may dismiss a case at any time, if the court determines the case is frivolous. *See* 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

(1) file a motion to dismiss this appeal, *see* Fed. R. App. P. 42(b), OR
(2) file a statement explaining why the appeal is not frivolous and should go forward.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. *See* 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to Federal Rule of Appellate Procedure 42(b). If appellant submits any response to

this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice.

If the court dismisses the appeal as frivolous, this appeal may be counted as a strike under 28 U.S.C. § 1915(g).

The briefing schedule for this appeal remains stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, and (2) a form statement that the appeal should go forward. Appellant may use the enclosed forms for any motion to dismiss this appeal or statement that the appeal should go forward.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Kendall W. Hannon
Deputy Clerk
Ninth Circuit Rule 27-7

APPENDIX "J"

Miscellaneous Law Library Circumvention
Provers

3 - Sheets

Pg. # 15

1

1-8

To The Inspector General,

It has come to my perpetual attention that the C.O.C.R. administration here at C.S.P.-L.S. County, now under the watchful supervision of Warden R.C. Johnson, that the last library has been in constant obstruction of my attempts to appeal my unlawful convictions of Sacramento County cases # 09F01221 and 07F06642. CCR §§ 3160.(a)(b) (1)(2)(3); 3120.(a)(b)(1)(2)(3)(4)(5) 3123.(a)(b)(c)(1)(2)(d); 3084, (d); Along while arbitrary homosexual misconduct and collusion with a corrupt band of inmate operators are afoot. see U.S.D.C. East. Dist. of Calif. case # 2:19-cv-2501-WEB-S-AC, ECF No. 1, p. 1-26; ECF No. 20, p. 1-25; CCR §§ 3380.(a) & (c); 3007; 3013; 3401.S. (a)(1)(2)(3)(A)(B)(C)(D)(E)(F)(4)(5)(b)(c)(d)(e)(f) & (g); 3401.G. (a)(b)(c)(d)(e); Wolff v. Mc Donnell, 418 U.S. 539, 555-557, 94 S. Ct. 2963, 2974-2975 (1974) (citing Younger v. Gilmore, 404 U.S. 15, 92 S. Ct. 250 (1971)); Anderson v. Bessemer City, 470 U.S. 364, 568-571, 84 L.E.2d 218, 525-527, 105 S. Ct. 1504 (1985)...

I am currently attempting to use the legal paging system in order to initiate another

went of error regarding this miscarriage of justice. I have had Appendices stolen out of a brief of certiorari which was forwarded to the U.S Supreme Court on July 26, 2020, to the Ninth Circuit Court of U.S Appeals collusion with said abusers. 9th Cir. # 20-15723, Pet. for Cert., p. VI, p. 4-10; CCR §§ 3380, (a); 3391, (a)(b), (c)(d); 3084, 1(d); 3401, 5(6); 3268, (a)(2)(3)(4)(5)(6)(7)(8)(9); 3120, (a)(b)(c)(2); 3085; 3084, 9, (a)(1)(A)(B)(2)(3)(4)(5)(A) 1, 2, 3, 4; 3123, (c)(2)(d); 3162, (a)(b); F.R.Civ.P. Rule 60(b) (3)(4) & (6); Title VII of the 1964 Civil Rights Act; Bus. & Prof. Code §§ 6068, (a)(b) & (d); 6128, (a); Edwards v. Marin Park, Inc., 356 E. 3d 1058, 1060-1061 (9th Cir. 2004); Gonzalez v. Crosby, 545 U.S. 524, 531-532, 162 L. Ed. 2d 480, 492, 125 S. Ct. 2641 (2005); I am an AOD inmate to which they've sent back my quarterly package without informing ME of its arrival.

The aforementioned is true and correct executed this 04th day of August 2020, under penalty of perjury. 28 U.S.C. / 1746 -.

Kevin W. Dunigan
Bn PPD for Specialist
G32433

I, Kevin W. Dunigan, do hereby declare that on the 04th day of August 2020, I did forward this 13th page complaint in an indigent envelope through the institutional legal mail process.

ADDRESSED TO:

Office of the Inspector General
Intake Unit
10111 Old Placerville Rd. Ste. #110
Sacramento, Calif. 95827

The aforementioned is true and correct executed this 04th day of August 2020, under penalty of perjury. 28 U.S.C. § 1746.

Kevin W. Dunigan

APPENDIX

"K"

1-SHEET NINTH CIRCUIT
Sept. 18, 2020 (Denial)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 18 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

Plaintiff-Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

Defendants-Appellees.

No. 20-15723

D.C. No.
2:19-cv-02501-WBS-AC
Eastern District of California,
Sacramento

ORDER

Before: O'SCANLAIN, RAWLINSON, and CHRISTEN, Circuit Judges.

Upon a review of the record, the responses to the court's July 14, 2020 order, and the opening brief received on June 8, 2020, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 8), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

All other pending motions are denied as moot.

DISMISSED.

APPENDIX "L"

U.S. Court of Appeals Ninth Circuit's
MANDATE / Dated: Oct. 13, 2020

1-Sheet

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 13 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,
Plaintiff - Appellant,
v.
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,
Defendants - Appellees.

No. 20-15723

D.C. No. 2:19-cv-02501-WBS-AC
U.S. District Court for Eastern
California, Sacramento

MANDATE

The judgment of this Court, entered September 18, 2020, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rhonda Roberts
Deputy Clerk
Ninth Circuit Rule 27-7

10-20-20
Rec.

APPENDIX "M"

Ninth Circuit Court of U.S. Appeals'
final MANDATE / Dated: Oct. 13, 2020

1 - Sheet

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 13 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN W. DUNIGAN,

No. 20-15723

Plaintiff - Appellant,

v.

D.C. No. 2:19-cv-02501-WBS-AC
U.S. District Court for Eastern
California, Sacramento

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

MANDATE

Defendants - Appellees.

The judgment of this Court, entered September 18, 2020, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rhonda Roberts
Deputy Clerk
Ninth Circuit Rule 27-7

10/10/20
Rec.