

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY WILEY, SR.,)	1:10-cv-00506-AWI-JLT
)	
Plaintiff,)	FINDINGS AND RECOMMENDATIONS
)	DISMISSING COMPLAINT WITH
v.)	PREJUDICE
)	
RALLS, et al.,)	
)	
)	
Defendants.)	

Plaintiff is proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On April 12, 2010, Plaintiff filed a new application to proceed in forma pauperis, pursuant to the order of the Court. (Doc. 6). As requested by the Court, Plaintiff provided information in this amended motion about the value of his residence and his tools. He reported also that he received Supplemental Security Income (“SSI”) benefits and has received these benefits since 1986. However, Plaintiff failed to disclose the amount of SSI benefits he receives on a monthly basis or the amount that he expects he will continue to receive. In addition, although Plaintiff stated that his wife was dependent upon him for support, he failed to indicate the amount of support he is required to provide her or explain why he must provide this support. Plaintiff failed to disclose also whether his spouse receives income and/or is receiving public benefits. Finally, Plaintiff did not explain the source of the income that he will use to pay for the \$140,000 home that he stated

1 was currently under construction.

2 On April 14, 2010, the Court detailed these deficiencies in his motion to proceed in forma
3 pauperis and ordered Plaintiff to submit a new complete, signed application or alternatively, pay
4 the \$350 filing fee. (Doc. 8). The Court granted Plaintiff 30 days to comply. (Id.) The Court
5 expressly warned Plaintiff that his failure to timely comply with the order would result in a
6 recommendation that this action be dismissed.

7 Plaintiff was required to file his amended motion by May 17, 2010. Nevertheless,
8 Plaintiff has failed to respond to the order.

9 **RECOMMENDATION**

10 Based on the foregoing, the Court recommends,

- 11 1. That the complaint (Doc. 1) be DISMISSED, with prejudice, for
12 failure to comply with the Court’s order to file a new motion to
13 proceed in forma pauperis or, alternatively, to pay the filing fee.

14 These Findings and Recommendations are submitted to the United States District Judge
15 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the
16 Local Rules of Practice for the United States District Court, Eastern District of California.

17 Within 14 days after being served with a copy, Plaintiffs may file written objections with the
18 Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and
19 Recommendations.” The District Judge will then review the Magistrate Judge’s ruling pursuant
20 to 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time may waive the
21 right to appeal the District Judge’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22
23 IT IS SO ORDERED.

24 Dated: May 20, 2010

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE