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

FABIAN RODRIGUEZ,

Petitioner,

No. CIV S-09-3205 DAD

vs.

M. MARTEL,

Respondent.

ORDER AND

FINDINGS AND RECOMMENDATIONS

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By an order filed November 24, 2009, petitioner was ordered to file an application to proceed in forma pauperis or pay the appropriate filing fee within thirty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and petitioner has not responded to the court's order and has not filed an application to proceed in forma pauperis or paid the appropriate filing fee.

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to randomly assign a United States District Judge to this action;

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

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