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

ELIJAH M. SMITH, JR.,

Plaintiff,

No. 2:10-cv-0679 JFM (PC)

vs.

J.K. ROWLING,

Defendant.

ORDER AND

FINDINGS & RECOMMENDATIONS

On April 28, 2010, plaintiff, a state prisoner proceeding pro se, was granted a third opportunity to file a fully completed application to proceed in forma pauperis on or before May 28, 2010. That period has now passed and plaintiff has not responded to the court's order and has not filed an application or paid the filing fee.

In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court assign a district judge to this matter; and

IT IS HEREBY RECOMMENDED that this case be dismissed without prejudice. See Fed. R. Civ. P. 41(b).

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file

1 written objections with the court. The document should be captioned "Objections to Findings  
2 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
3 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
4 (9th Cir. 1991).

5 DATED: June 14, 2010.

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8 UNITED STATES MAGISTRATE JUDGE

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