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

ROBERT BENYAMINI,

Plaintiff,

No. 2:12-cv-1578 WBS CKD P

vs.

WOLFE, et al.,

Defendants.

ORDER

_____ /

On August 17, 2012, this court recommended that this action be dismissed without prejudice due to plaintiff’s failure to file an in forma pauperis affidavit or pay the appropriate filing fee. (Dkt. No. 11.) On August 13, 2012, plaintiff constructively filed a motion to stay this action, or in the alternative, extend time for “at least” ninety days to file a “renewed application/motion.” (Dkt. No. 12 at 2.) As this motion was docketed August 17, 2012, it appears that these two filings “crossed in the mail.”

Plaintiff’s request to stay this action is denied for the reasons set forth in this court’s July 17, 2012 order, affirmed on reconsideration by the district court. (Dkt. Nos. 7, 10.) Plaintiff alternatively requests a “very lengthy extension of time” due to the fact that he has not received his legal property since being transferred to Atascadero State Hospital. (Dkt. No. 12 at 2.) The court will grant this request in part. As it appears that plaintiff may no longer have an

1 IFP application in his possession, the court will vacate its August 17, 2012 findings and
2 recommendation that this action be dismissed and direct the Clerk of Court to send plaintiff
3 another IFP application. Plaintiff will be granted 30 days to complete and submit this
4 application.

5 However, the court will not grant plaintiff an open-ended deadline to complete the
6 process to initiate a civil action in this court – i.e., to submit a complete IFP application or pay
7 the filing fee. As plaintiff has not completed this process, his requests for counsel and/or
8 injunctive relief are premature. (Dkt. No. 12 at 2.)

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The August 17, 2012 findings and recommendations are hereby VACATED
11 for the reasons set forth above;

12 2. Plaintiff's August 17, 2012 motion to stay (Dkt. No. 12) is granted to the
13 following extent:

14 a. The Clerk of Court shall send plaintiff a new Application to
15 proceed In Forma Pauperis;

16 b. Plaintiff shall submit, within thirty days from the date of this
17 order, an affidavit in support of his request to proceed in forma
18 pauperis on the form provided by the Clerk of Court, or the
19 appropriate filing fee; plaintiff's failure to comply with this order
20 will result in a recommendation that this action be dismissed.

21 The motion is otherwise denied.

22 Dated: August 29, 2012

23 
24 _____
25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE