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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN,
Plaintiff,
v.
K. LAVALEUR, et al.,
Defendants.

No. 2:15-cv-1484-GEB-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On October 19, 2015, the court found that plaintiff had failed to submit the certified trust account statement required by 28 U.S.C. § 1915(a).¹ Accordingly, the court ordered plaintiff to submit the required trust account statement within thirty days and warned him that failure to do so may result in this action being dismissed. The time for acting has passed and plaintiff has not submitted the required trust account statement or otherwise responded to the court’s order.

Accordingly, it is hereby ORDERED that the August 31, 2015 findings and recommendations (ECF No. 4) are vacated.

¹ The court previously recommended that this action be dismissed after plaintiff failed to properly commence a civil action. ECF No. 4. In light of plaintiff’s subsequent filing of a complaint and application to proceed in forma pauperis, that recommendation is vacated.

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Further, it is RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

DATED: November 23, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE