UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MARTIN LEE FOSTER,

Plaintiff,

v.

JEB TRUMMEL, et al.,

Defendants.

No. 2:18-cv-2493-EFB P

ORDER AND FINDINGS AND RECOMMENDATIONS

Plaintiff is a county inmate proceeding without counsel in an action brought under 42 U.S.C. § 1983. On September 18, , 2018, this court found that plaintiff had failed to pay the $400 filing fee required by 28 U.S.C. § 1914(a) or request leave to proceed in forma pauperis and submit the affidavit and trust account statement required by 28 U.S.C. § 1915(a). Accordingly, the court directed the Clerk to send plaintiff an Application to Proceed In Forma Pauperis, ordered plaintiff to submit the filing fee or completed application within thirty days and warned plaintiff that failure to do so may result in this action being dismissed. ECF No. 3. The time for acting has now passed and plaintiff has not paid the required filing fee, submitted the completed application for leave to proceed in forma pauperis or otherwise responded to the court's order.

Accordingly, it is ORDERED that the Clerk is directed to randomly assign a United States District Judge to this case.

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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)(l). 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 8, 2018.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE