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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MELVIN DUKES,

Plaintiff,

v.

TODD, et al.,

Defendants.

CASE NO. 1:10-cv-00698-LJO-SKO PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF THIS
ACTION FOR PLAINTIFF’S FAILURE TO PAY
THE FILING FEE

RESPONSE DUE WITHIN 20 DAYS

Plaintiff Melvin Duker (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 22, 2010, the Court issued an order directing Plaintiff to submit an in forma pauperis application or pay the filing fee for this action. (Doc. #3.) The order was mailed to Plaintiff and was later returned to the Court as undeliverable because Plaintiff refused delivery of the mail containing the order. Plaintiff has not paid the filing fee for this action or submitted an application to proceed in forma pauperis.

Accordingly, it is HEREBY RECOMMENDED that this action be dismissed for Plaintiff’s failure to pay the filing fee.

These Findings and Recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30) 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 reply to the objections shall be served and filed within ten (10) days after service of the objections. The parties are advised

1 that failure to file objections within the specified time may waive the right to appeal the District
2 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3
4 IT IS SO ORDERED.

5 **Dated: July 19, 2010**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE