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HELDA WILSON,

v.

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CASE NO. 1:10-CV-01086-LJO-DLB PC

Plaintiff, FINDINGS AND RECOMMENDATIONS RECOMMENDING DISMISSAL OF ACTION

WITHOUT PREJUDICE

R. PERKINSON, et al., (DOCS. 2, 3)

> Defendants. OBJECTIONS, IF ANY, DUE WITHIN

FOURTEEN DAYS

Plaintiff, a California state prisoner proceeding pro se, filed this civil action on June 16, 2010. Plaintiff did not pay the \$350.00 filing fee in full or file an application to proceed in forma pauperis, and on June 17, 2010, the Court ordered Plaintiff to do so within forty-five days. Doc. 3. More than forty-five days have passed and Plaintiff has not complied with the Court's order. Plaintiff was warned that failure to obey the order would result in dismissal of the action. On June 16, 2010, the Court issued an order for Plaintiff either to consent or decline jurisdiction by a magistrate judge in this action. Doc. 2. Plaintiff has also not submitted whether she consents or declines magistrate judge jurisdiction.

A civil action may not proceed absent the submission of either the filing fee or an application to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Because Plaintiff has submitted neither and has not responded to the Court's order to do so, dismissal of this action is appropriate. In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110.

Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed, without

prejudice, for failure to pay the filing fee or file an application to proceed in forma pauperis, and for failure to submit the form notifying the Court whether she consents or declines magistrate judge jurisdiction.

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 **fourteen (14) days** after being served with these Findings and Recommendations, the Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: January 11, 2012 /s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE