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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TERRAL MCMILLAN,

CASE NO. 1:10-cv-02171-AWI-SKO PC

Plaintiff,

ORDER DISMISSING ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY FILING
FEE OR FILE APPLICATION TO PROCEED
IN FORMA PAUPERIS

v.

K. IKELER, et al.,

(Doc. 4)

Defendants.

_____/

Plaintiff Terral McMillan, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on November 22, 2010. Plaintiff filed a form application to proceed in forma pauperis which did not contain all of the information required by this Court, specifically Plaintiff’s authorization for the deduction of the filing fee from his trust account. On November 24, 2010, the Court issued an order requiring Plaintiff to either pay the \$350.00 filing fee in full or file an application to proceed in forma pauperis on the form provided with the order, within forty-five days. More than forty-five days have passed and Plaintiff has not complied with or otherwise responded to the Court’s order.¹ Plaintiff was warned that dismissal would occur if he failed to obey the order.

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¹ The order was returned to the Court with a notation that it was refused by Plaintiff. The order was served on Plaintiff at his address of record and service is therefore deemed effective. Local Rule 182(f). The Court notes that approximately three months later, another order served on Plaintiff was returned with a notation that Plaintiff refused it.

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

6 Accordingly, the Court HEREBY ORDERS this action dismissed, without prejudice, for
7 failure to pay the filing fee or file a completed application to proceed in forma pauperis. The Clerk
8 of the Court is DIRECTED to close this action.

9
10
11 IT IS SO ORDERED.

12 Dated: April 13, 2011


13 _____
14 CHIEF UNITED STATES DISTRICT JUDGE