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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DONALD C. BROWN,

Plaintiff,

v.

K. ALLISON, et al.,

Defendants.

CASE NO. 1:12-cv-00109-LJO-GBC (PC)

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF ACTION,  
WITHOUT PREJUDICE, FOR FAILURE TO  
EITHER PAY FILING FEE OR SUBMIT AN  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS

Docs. 3, 5

/ OBJECTIONS DUE WITHIN FIFTEEN DAYS

**Findings and Recommendations**

On January 26, 2012, Plaintiff Donald C. Brown (“Plaintiff”), a prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Doc. 1.

On January 30, 2012, the Court ordered Plaintiff to submit an application to proceed in forma pauperis or pay the filing fee within forty-five days. Doc. 3. On March 2, 2012, Plaintiff filed a motion for forty-five (45) day extension of time to file an application to proceed in forma pauperis. Doc. 4. On March 6, 2012, the Court granted Plaintiff’s motion for forty-five (45) day extension of time to file an application to proceed in forma pauperis. Doc. 5. In the January 30, 2012 and March 6, 2012 orders, the Court placed Plaintiff on notice that failure to submit an application to proceed in forma pauperis or pay the filing fee would result in dismissal. Docs. 3, 5. To date, Plaintiff has failed to pay the \$350.00 filing fee in full, submit an application to proceed in forma pauperis, or respond to the Court’s orders.

1 A civil action may not proceed absent the submission of either the filing fee or an application  
2 to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Because Plaintiff has not submitted an  
3 application to proceed in forma pauperis, paid the filing fee, or responded to the Court's order to do  
4 so, dismissal of this action is appropriate. *In re Phenylpropanolamine (PPA) Products Liability*  
5 *Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110.

6 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed, without  
7 prejudice, for failure to pay the filing fee or submit a completed application to proceed in forma  
8 pauperis.

9 These Findings and Recommendations will be submitted to the United States District Judge  
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fifteen (15) days**  
11 after being served with these Findings and Recommendations, Plaintiff may file written objections  
12 with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and  
13 Recommendations." Plaintiff is advised that failure to file objections within the specified time may  
14 waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th  
15 Cir. 1991).

16  
17 IT IS SO ORDERED.

18 Dated: May 4, 2012

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UNITED STATES MAGISTRATE JUDGE