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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY DALE BARGER, also known as
GARY FRANCIS FISHER

Plaintiff,

v.

SCOTT TURPIN,

Defendant.

Case No. 1:13-cv-01877 LJO DLB PC

ORDER REGARDING PLAINTIFF’S
MOTION TO BE HEARD
(Document 13)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(Document 12)

ORDER REQUIRING PLAINTIFF TO PAY
\$400.00 FILING FEE IN FULL OR FILE AN
APPLICATION TO PROCEED IN FORMA
PAUPERIS WITHIN **FORTY-FIVE DAYS**

ORDER FOR CLERK OF COURT TO USE
PLAINTIFF’S AKA “GARY FRANCIS
FISHER”

Plaintiff Gary Dale Barger (“Plaintiff”) is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on November 12, 2013. The action was transferred to this Court on November 18, 2013.

On November 21, 2013, the Court issued an order directing Plaintiff to either file an application to proceed in forma pauperis, or pay the filing fee, within 45 days of the date of service of the order.

1 On December 16, 2013, the order, along with other documents that the Court had sent to
2 Plaintiff, were returned by the United States Postal Office as “Undeliverable, Return to Sender, not
3 Deliverable as Addressed.”

4 On March 6, 2014, the Court issued Findings and Recommendations that the action be
5 dismissed for failure to follow a Court order and failure to prosecute.

6 On April 14, 2014, the Court received a document entitled, “Motion to Be Heard and
7 Requests.” Plaintiff states that he had been in the hospital until January 8, 2014, and has been
8 having trouble receiving his legal mail.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The March 6, 2014, Findings and Recommendations (Document 12) are VACATED;
- 11 2. Within **forty-five (45) days** from the date of service of this order, Plaintiff SHALL
12 either pay the \$400.00 filing fee in full or file the attached application to proceed in forma pauperis,
13 completed and signed; and
- 14 3. The Clerk of Court is ORDERED to use Plaintiff’s AKA “Gary Francis Fisher” in the
15 mailing address.¹

16 Failure to comply with this order will result in dismissal of this action.

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18 IT IS SO ORDERED.

19 Dated: April 23, 2014

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff used “Gary Dale Barger AKA Gary Francis Fisher” on his original complaint.