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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN ALLEN RAINWATER,
Plaintiff,
v.
PAM AHLIN,
Defendant.

CASE NO. 1:15-cv-00795-LJO-MJS (PC)

**FINDINGS AND RECOMMENDATION TO
DISMISS ACTION WITHOUT PREJUDICE
FOR FAILURE TO PAY FILING FEE OR
FILE APPLICATION TO PROCEED IN
FORMA PAUPERIS**

(ECF No. 12)

**FOURTEEN (14) DAY OBJECTION
DEADLINE**

Plaintiff is a civil detainee proceeding pro se in a civil rights action brought pursuant to 42 U.S.C. § 1983.

On March 9, 2015, Plaintiff filed a motion to proceed in forma pauperis. It contained no financial information. (ECF No. 2.) The motion was dismissed without prejudice. (ECF No. 4.)

On March 23, 2015, Plaintiff filed an unsigned motion to proceed as a prisoner in forma pauperis. (ECF No. 5.) On May 29, 2015, the Court ordered Plaintiff to complete and file an application to proceed in forma pauperis for a non-prisoner or to pay the full filing fee for this action within thirty days. (ECF No. 12.) Plaintiff was warned that dismissal would occur if he failed to obey the order.

1 The thirty day deadline passed without Plaintiff either filing an application to
2 proceed in forma pauperis, paying the applicable filing fee, or seeking an extension of
3 time to do so.

4 A civil action may not proceed absent the submission of either the filing fee or a
5 completed application to proceed in forma pauperis. 28 U.S.C. §§ 1914, 1915. Based on
6 Plaintiff's failure to comply with the Court's order, dismissal of this action is appropriate.
7 See In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226
8 (9th Cir. 2006); Local Rule 110.

9 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed,
10 without prejudice, for failure to pay the filing fee or file a completed application to
11 proceed in forma pauperis.

12 The findings and recommendation are submitted to the United States District
13 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
14 fourteen (14) days after being served with the findings and recommendation, any party
15 may file written objections with the Court and serve a copy on all parties. Such a
16 document should be captioned "Objections to Magistrate Judge's Findings and
17 Recommendation." Any reply to the objections shall be served and filed within fourteen
18 (14) days after service of the objections. The parties are advised that failure to file
19 objections within the specified time may result in the waiver of rights on appeal.
20 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923
21 F.2d 1391, 1394 (9th Cir. 1991)).

22
23 IT IS SO ORDERED.

24 Dated: July 13, 2015

/s/ Michael J. Seng
25 UNITED STATES MAGISTRATE JUDGE