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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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7 MANUEL HERRERA-GARCIA,
8

9 Plaintiff,

10 v.

11 SHERYLL,
12

13 Defendant.

Case No. 1:17-cv-00735-DAD-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
BE DISMISSED, WITHOUT PREJUDICE

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY-ONE DAYS

14 Manuel Herrera-Garcia ("Plaintiff") is a state prisoner proceeding *pro se* with this civil
15 rights action filed pursuant to 42 U.S.C. § 1983.

16 On May 31, 2017, the Court issued an order giving Plaintiff forty-five days to either pay
17 the \$400 filing fee or submit an application to proceed in forma pauperis. (ECF No. 7).
18 Plaintiff was warned that his case would be dismissed if he did not pay the filing fee or submit
19 an application to proceed in forma pauperis. (*Id.*). The time period has expired, and Plaintiff
20 did not pay the filing fee, submit an application to proceed in forma pauperis, or otherwise
21 respond to the Court's order.¹

22 Accordingly, IT IS HEREBY RECOMMENDED that:

- 23 1. This action be dismissed, without prejudice, for Plaintiff's failure to pay the filing
24 fee or file an application to proceed in forma pauperis; and
25 2. The Clerk of Court be directed to close this case.

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27 ¹ The Court notes that before this case was transferred to the Eastern District of California, the Clerk of
28 Court at the Northern District of California sent Plaintiff a notice, notifying Plaintiff that his case would be
dismissed if he did not pay the filing fee or file an application to proceed in forma pauperis. (ECF No. 3). It does
not appear that Plaintiff responded to the notice.

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty-
3 one (21) days after being served with these findings and recommendations, Plaintiff may file
4 written objections with the court. Such a document should be captioned "Objections to
5 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
6 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
7 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
8 (9th Cir. 1991)).

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10 IT IS SO ORDERED.

11 Dated: August 2, 2017

12 /s/ Eric P. Grogan
13 UNITED STATES MAGISTRATE JUDGE
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