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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 NICOLE JONES,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL SECURITY,

15 Defendant.

Case No. 1:19-cv-01049-DAD-SAB

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSING ACTION  
FOR FAILURE TO PAY FILING FEE

(ECF No. 8)

FOURTEEN DAY DEADLINE

16  
17 On July 31, 2019, Nicole Jones (“Plaintiff”) filed the complaint in this action seeking  
18 judicial review of the final decision of the Commissioner of Social Security (“Defendant”)  
19 denying her application for benefits under the Social Security Act. (ECF No. 1.) Along with her  
20 complaint, Plaintiff filed an application to proceed *in forma pauperis* in this matter. (ECF No.  
21 2.) On August 1, 2019, the undersigned reviewed Plaintiff’s application to proceed *in forma*  
22 *pauperis* and found that Plaintiff’s application did not show that she was entitled to proceed  
23 without prepayment of fees in this action. (ECF No. 3.) The August 1, 2019 order required  
24 Plaintiff to submit a long form application to proceed without prepayment of fees within thirty  
25 days. (Id.)

26 On August 14, 2019, Plaintiff submitted a long form application to proceed without  
27 prepayment of fees. (ECF No. 4.) Upon review of the long form application, findings and  
28 recommendations issued on August 15, 2019, recommending denying Plaintiff’s application to

1 proceed in this action without prepayment of fees. (ECF No. 5.) Plaintiff was provided with  
2 notice of the findings and recommendations and that any objections to the findings and  
3 recommendations were to be filed within fourteen days. (Id.) Plaintiff did not file objections but  
4 on September 3, 2019, a motion for an extension of time to pay the filing fee was filed. (ECF  
5 No. 6.) Plaintiff’s motion for an extension of time to pay the filing fee was denied as premature  
6 on September 4, 2019. (ECF 7.) On October 23, 2019, the findings and recommendations was  
7 adopted and Plaintiff was ordered to pay the filing fee in this matter within thirty days. (ECF  
8 No. 8.) More than thirty days have passed and Plaintiff has not paid the filing fee or otherwise  
9 responded to the Court’s October 23, 2019 order.

10 Here, Plaintiff was ordered to pay the filing fee within thirty days of October 23, 2019  
11 and she has not done so. Rule 110 of the Local Rules of the United States District Court for the  
12 Eastern District of California provides that “[f]ailure of counsel or of a party to comply with  
13 these Rules or with any order of the Court may be grounds for imposition by the Court of any  
14 and all sanctions . . . within the inherent power of the Court.” The Court has the inherent power  
15 to control its docket and may, in the exercise of that power, impose sanctions where appropriate,  
16 including dismissal of the action. Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir.  
17 2000).

18 Plaintiff was advised in the October 23, 2019 order that her failure to pay the filing fee  
19 would result in dismissal of this action without prejudice subject to refiling upon prepayment of  
20 the filing fee. (ECF No. 8 at 2.)

21 Accordingly, IT IS HEREBY RECOMMENDED that:

- 22 1. This action be dismissed without prejudice for Plaintiff’s failure to pay the filing  
23 fee; and
- 24 2. Should Plaintiff refile this action she should be required to prepay the full filing  
25 fee.

26 This findings and recommendations is submitted to the district judge assigned to this  
27 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court’s Local Rule 304. Within **fourteen**  
28 **(14) days** of service of this recommendation, any party may file written objections to this

1 findings and recommendations with the court and serve a copy on all parties. Such a document  
2 should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” The  
3 district judge will review the magistrate judge’s findings and recommendations pursuant to 28  
4 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections within the specified  
5 time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th  
6 Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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8 IT IS SO ORDERED.

9 Dated: November 26, 2019

  
UNITED STATES MAGISTRATE JUDGE

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