1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 Case No.: 1:21-cv-00049-SKO (PC) DANIEL W. RANNELS, 12 Plaintiff. FINDINGS AND RECOMMENDATIONS TO DENY PLAINTIFF'S MOTION TO 13 v. PROCEED IN FORMA PAUPERIS 14 SMITH, et al., (Doc. 2) 15 Defendants. 14-DAY DEADLINE 16 Clerk of the Court to assign a District Judge 17 18 On January 13, 2021, Plaintiff Daniel W. Rannels filed a motion to proceed in forma 19 pauperis (IFP). (Doc. 2.) The certified account statement submitted by the California Department 20 of Corrections and Rehabilitation indicates that, as of January 14, 2021, Plaintiff had \$1,337.32 in 21 his inmate trust account. (Doc. 6.) This is more than enough to pay the filing fee of \$402 in full. 22 Accordingly, on January 14, 2021, the Court ordered Plaintiff to show cause, within 21 23 days, why his motion to proceed IFP should not be denied. (Doc. 7.) Plaintiff has not responded 24 to the order, and the time to do so has passed. 25 As the Court explained in its order to show cause, proceeding "in forma pauperis is a 26 privilege not a right." Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not 27 be completely destitute to proceed IFP, Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 28

339-40 (1948), "the same even-handed care must be employed to assure that federal funds are

1 not squandered to underwrite, at public expense, ... the remonstrances of a suitor who is 2 financially able, in whole or in material part, to pull his own oar." Doe v. Educ. Enrichment Sys., 3 No. 15cv2628-MMA-MDD, 2015 U.S. Dist. LEXIS 173063, \*2 (S.D. Cal. 2015) (citation 4 omitted). 5 Plaintiff has sufficient funds in his inmate trust account to pay the filing fee in full. 6 Accordingly, the Court DIRECTS the Clerk of the Court to assign a district judge to this action 7 and RECOMMENDS that: 8 1. Plaintiff's motion to proceed in forma pauperis (Doc. 2) be DENIED; and, 9 2. Plaintiff be required to pay the filing fee of \$402 within 30 days of the assigned 10 district judge's adoption of these findings and recommendations. 11 These findings and recommendations will be submitted to the United States District Judge 12 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days of the 13 date of service of these findings and recommendations, Plaintiff may file written objections with 14 the Court. The document should be captioned, "Objections to Magistrate Judge's Findings and 15 Recommendations." Plaintiff's failure to file objections within the specified time may result in waiver of his rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing 16 17 Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). 18 IT IS SO ORDERED. 19 Ist . Sheila . K. Oberk 20 Dated: **February 17, 2021** UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26

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