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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LUIS A. PADILLA,

Plaintiff,

No. 2:08-cv-1357-MCE-JFM (PC)

vs.

J. WALKER, et al.,

Defendants.

ORDER

_____ /

On January 14, 2009, this court issued findings and recommendations recommending that this action be dismissed for plaintiff's failure to comply with this court's October 30, 2008 order. On January 23, 2009, plaintiff filed objections to the findings and recommendations. Plaintiff contends he did not receive any response from the court to his October 15, 2008 request for extension of time, and did not receive an additional in forma pauperis affidavit or a copy of his trust account statement from jail officials.

Good cause appearing, the findings and recommendations will be vacated and the Clerk of the Court will be directed to re-serve a copy of the October 30, 2008 order on plaintiff by certified mail, return receipt requested, along with two copies of the applications to proceed in forma pauperis. Plaintiff will be granted a third extension of time in which to comply with the October 30, 2008 order.

Accordingly, IT IS HEREBY ORDERED that:

1. The January 14, 2009 findings and recommendations are vacated;
2. The Clerk of the Court is directed to send plaintiff a copy of the October 30,

1 2008 order (#14) and **two (2)** copies of the court's application to proceed in forma pauperis to
2 plaintiff;

3 3. Within thirty days plaintiff shall complete an affidavit in support of his request
4 to proceed in forma pauperis and submit it to jail officials for completion of the certification
5 portion and to obtain a copy of the certified trust account statement. Plaintiff shall take note of
6 the date and time he presents the completed affidavit to jail officials and shall document the jail
7 official's name and badge number to submit to the court with his affidavit completed pursuant to
8 paragraph (4) below.

9 4. Plaintiff is granted thirty days from the date of this order in which to file a
10 completed affidavit in support of his request to proceed in forma pauperis, including the detailed
11 information as to its delivery to jail officials pursuant to paragraph (3) above, without completing
12 the certification by jail officials or trust account statement.

13 5. Upon receipt of the affidavit completed by plaintiff, as well as the information
14 concerning its delivery to jail officials, the court will hold this action in abeyance for a period of
15 thirty days. If, within that thirty day period, these documents have not been provided to plaintiff
16 by jail officials, this court will issue an order to show cause why the Sacramento County Jail
17 Commander should not be held in contempt for interfering with plaintiff's access to the courts.

18 6. The Clerk of the Court is directed to serve a certified copy of this order on the
19 Sacramento County Jail Commander, 650 I Street, Sacramento, CA 95814.

20 DATED: January 27, 2009.

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23 UNITED STATES MAGISTRATE JUDGE

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