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

10 MELVIN DUKES,

11 Petitioner,

No. CIV S-08-2347 DAD P

12 vs.

13 R. PININER, et al.,

ORDER AND

14 Respondents.

FINDINGS AND RECOMMENDATIONS

15 _____/
16 By an order filed November 13, 2008, petitioner was ordered to file an in forma
17 pauperis affidavit or to pay the appropriate filing fee, within thirty days. Petitioner was
18 admonished that failure to do so would result in a recommendation for dismissal of this action.
19 The thirty day period has now expired, and petitioner has not responded to the court's order, has
20 not filed an in forma pauperis affidavit, and has not paid the appropriate filing fee. Accordingly,

21 IT IS HEREBY ORDERED that the Clerk of the Court is directed to randomly
22 assign a United States District Judge to this action;

23 IT IS HEREBY RECOMMENDED that this action be dismissed without
24 prejudice.

25 These findings and recommendations are submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty

1 days after being served with these findings and recommendations, petitioner may file written
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's
3 Findings and Recommendations." Petitioner is advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
5 F.2d 1153 (9th Cir. 1991).

6 DATED: January 6, 2009.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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