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

ANDRE M. BUTLER,

Plaintiff,

No. 2:08-cv-2889 JFM (PC)

vs.

S. HUBBARD, et al.,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

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By an order filed December 16, 2008, plaintiff was ordered to file an in forma pauperis affidavit on the form used by this district within thirty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not responded to the court's order and has not filed an in forma pauperis affidavit on the form used by this district.

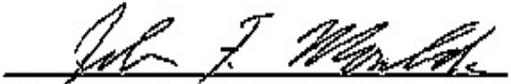
Accordingly, IT IS ORDERED that the Clerk of the Court is directed to assign a district judge to this case; and

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

These findings and recommendations are submitted to the United States District 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, plaintiff may file written  
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
3 Findings and Recommendations." Plaintiff 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 26, 2009.

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9 UNITED STATES MAGISTRATE JUDGE

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