IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMY THOMAS CLARK,

Petitioner, No. CIV S-08-2949 DAD P

vs.

MIKE MARTEL, ORDER AND

Respondent. FINDINGS AND RECOMMENDATIONS

_____/

By order filed December 17, 2008, petitioner was ordered to file an in forma pauperis affidavit or pay the appropriate filing fee within thirty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The time period has now expired, and petitioner has not filed an in forma pauperis affidavit or paid the appropriate filing fee.

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

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

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)(l). Within twenty

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

DATED: January 27, 2009.

DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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