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

ERIC HARPER,

Petitioner,

No. CIV S-09-0400 EFB P

vs.

T. FELKER, et al.,

Respondents.

ORDER AND FINDINGS
AND RECOMMENDATIONS

_____ /

Petitioner is a state prisoner proceeding without counsel seeking a writ of habeas corpus. See 28 U.S.C. § 2254. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

On May 12, 2009, the court found that petitioner had failed to pay the filing fee required by 28 U.S.C. § 1914(a) or a request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). Petitioner was granted thirty days in which to pay the filing fee or file an application to proceed *in forma pauperis* and was warned plaintiff that failure to comply would result in a recommendation that this action be dismissed.

The 30-day period has expired and petitioner has not paid the filing fee, filed a completed *in forma pauperis* application or complaint, or otherwise responded to the court's order.

///

1 Accordingly, it is hereby ORDERED that the Clerk shall randomly assign a United States
2 District Judge to this case; and

3 It is hereby RECOMMENDED that this action be dismissed without prejudice.

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days
6 after being served with these findings and recommendations, any party may file written
7 objections with the court and serve a copy on all parties. Such a document should be captioned
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
9 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
10 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

11 Dated: August 17, 2009.

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13 EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE
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