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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN WESLEY WILLIAMS,
Plaintiff,
v.
CALIFORNIA DEPT. OF
CORRECTIONS AND
REHABILITATION, et al.,
Defendants.

No. 2:09-cv-0784 JAM AC P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On October 23, 2013, the court adopted the undersigned’s findings and recommendations that plaintiff’s in forma pauperis status be revoked on the grounds that he is a three strikes plaintiff under 28 U.S.C. § 1915. See ECF No. 57. As a result, plaintiff was ordered to pay the filing fee prior to proceeding in this matter. See id. at 2. Plaintiff appealed the order in the Ninth Circuit Court of Appeal. ECF Nos. 58, 59.

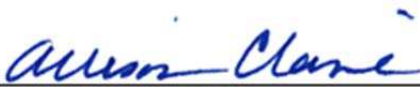
On April 12, 2016, the Ninth Circuit dismissed the appeal without prejudice to reinstatement. See ECF No. 61 at 5. In the order, reinstatement was contingent upon this court denying the parties’ request to vacate the judgment. See id.

1 On April 27, 2016, the parties filed a motion requesting that the court vacate its order of
2 October 23, 2013, pursuant to Federal Rule of Civil Procedure 60(b). ECF No. 61. In support of
3 the motion, the parties stated that they had reached a settlement that was conditioned upon this
4 court's vacation of its October 2013 order. Id. at 2-3. However, on May 25, 2017, the parties
5 summarily withdrew the motion to vacate. ECF No. 62. As a result, because the October 2013
6 order directing plaintiff to pay the filing fee had not been overturned or vacated, on September
7 12, 2017, the undersigned ordered plaintiff to pay the filing fee within thirty days and cautioned
8 that not doing so would result in a recommendation that this action be dismissed. See ECF No.
9 63. To date, plaintiff has not responded in any way to the court's order.

10 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
11 prejudice.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, any party may file written
15 objections with the court and serve a copy on all parties. Such a document should be captioned
16 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
17 objections shall be filed and served within fourteen days after service of the objections. The
18 parties are advised that failure to file objections within the specified time may waive the right to
19 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 DATED: May 8, 2018

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22 ALLISON CLAIRE
23 UNITED STATES MAGISTRATE JUDGE
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