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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   DAVID M. WALTON,

11   Petitioner,   No. CIV S-09-1384 EFB P

12   vs.

13   SACRAMENTO DISTRICT COURT,   ORDER AND FINDINGS
                                             AND RECOMMENDATIONS
14   Respondent.

15   _____/

16   Petitioner is a prisoner proceeding without counsel seeking a writ of habeas corpus. *See*

17   28 U.S.C. § 2254. This proceeding was referred to this court by Local Rule 72-302 pursuant to

18   28 U.S.C. § 636(b)(1).

19   On August 7, 2009, the court found that petitioner had failed to pay the filing fee required

20   by 28 U.S.C. § 1914(a) or a request to proceed *in forma pauperis* pursuant to 28 U.S.C.

21   § 1915(a). Petitioner was granted thirty days in which to pay the filing fee or file an application

22   to proceed *in forma pauperis* and was warned plaintiff that failure to comply would result in a

23   recommendation that this action be dismissed.

24   The 30-day period has expired and petitioner has not paid the filing fee, filed a completed

25   *in forma pauperis* application or complaint, or otherwise responded to the court's order.

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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)(l). 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: October 15, 2009.

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13 EDMUND F. BRENNAN
   UNITED STATES MAGISTRATE JUDGE

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