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

GONZALO ACUNA,

Petitioner,

No. CIV S-09-1538 DAD P

vs.

A. HEDGEPEETH,

Respondent.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

By an order filed August 18, 2009, petitioner was ordered to file an in forma pauperis affidavit or to pay the appropriate filing fee, within thirty days, or his application would be dismissed. The thirty-day period has now expired, and petitioner has not responded to the court's order, has not filed an in forma pauperis affidavit, and has not 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.

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, petitioner may file written
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's
3 Findings and Recommendations." Petitioner 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: September 30, 2009.

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9 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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