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

MELVIN DUKES,

Petitioner,

No. CIV S-09-1952 KJM P

vs.

MUNIZ, et al.,

Respondent.

ORDER AND
FINDINGS AND RECOMMENDATIONS

_____ /

By an order filed August 5, 2009 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 thirty day period has now expired, and petitioner has not filed an in forma pauperis affidavit or paid the appropriate filing fee.

Although it appears from the file that petitioner’s copy of the order was returned, petitioner was properly served. It is the petitioner’s responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 83-182(f), service of documents at the record address of the party is fully effective.

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1 Petitioner did return the form seeking his consent to this court's jurisdiction, he
2 signed both the consent and the decline portions. In light of this ambiguity, the court declines to
3 accept final jurisdiction over this case.

4 IT IS THEREFORE ORDERED that the Clerk of the Court assign a district judge
5 to this case.

6 IT IS HEREBY RECOMMENDED that this action be dismissed without
7 prejudice.

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

16 DATED: October 1, 2009.

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18 U.S. MAGISTRATE JUDGE

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duke1952.fifp