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

MELVIN DUKES,

Plaintiff,

No. CIV S-09-2056 EFB P

vs.

E. B. JONES, et al.,

Defendants.

ORDER AND FINDINGS
AND RECOMMENDATIONS

_____ /

On August 7, 2009, the court found that plaintiff had failed to pay the required filing fee or submit an application to proceed *in forma pauperis*. Accordingly, the court ordered plaintiff to submit either the filing fee or the application required by 28 U.S.C. § 1915(a) within thirty days and warned him that failure to do so would result in a recommendation that this action be dismissed.

The 30-day period has expired and plaintiff has not paid the filing fee, filed a completed *in forma pauperis* affidavit or otherwise responded to the court’s order.¹

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¹ Although it appears from the file that plaintiff’s copy of the order was returned marked “refused,” plaintiff was properly served. Pursuant to Local Rule 83-182(f), service of documents at the record address of the party is fully effective.

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

3 Further, it is 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: October 15, 2009.

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13 EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE
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