

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

DONALD L. STEVENS,

Plaintiff,

No. CIV S-09-2111 WBS GGH P

vs.

MATT FUCHS, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On October 30, 2009, the undersigned filed findings and recommendations recommending dismissal of this action for plaintiff's failure to complete an in forma pauperis application, pursuant to an order filed on August 10, 2009, or to pay the appropriate filing fee. In timely objections, plaintiff asks for another opportunity to file an in forma pauperis affidavit due to the insufficiency of the law library (which does not appear to be an apposite reason for a delayed affidavit regarding his inmate trust account) but also because of his recent transfer, which apparently caused a delay in his filing. The court will vacate the findings and recommendations and grant petitioner one final opportunity either to make the requisite showing for in forma pauperis status or to pay the filing fee.

\\\\\\

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Accordingly, IT IS ORDERED that:

1. The findings and recommendations, filed on October 30, 2009 (docket # 10), are hereby VACATED;
2. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In Forma Pauperis By a Prisoner;
3. Plaintiff shall submit, within twenty-eight (28) days from the date of this order, an affidavit in support of his request to proceed in forma pauperis on the form provided by the Clerk of Court, or the appropriate filing fee; plaintiff's failure to comply with this order will result in the dismissal of this action; and;
4. There will be no further extension of time.

DATED: December 8, 2009

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

GGH:009
stev2111.vac