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

DIOVANNI WHITMIRE,

Plaintiff,

No. CIV S-09-2217 KJM P

vs.

VINCENT R. MATTER,

Defendant.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____/

By an order filed August 26, 2009, plaintiff was ordered to file an in forma pauperis affidavit or pay the appropriate filing fees 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 plaintiff has not responded to the court's order.

Accordingly, IT IS ORDERED that the Clerk of the Court assign a district judge to the case.

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-one days after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Such a document should be captioned
2 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
3 shall be served and filed within fourteen days after service of the objections. The parties are
4 advised that failure to file objections within the specified time may waive the right to appeal the
5 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: December 17, 2009.

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9 U.S. MAGISTRATE JUDGE

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