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

LARRY D. EDWARDS,

Petitioner,

No. CIV S-10-0031 DAD P

vs.

GARY SWARTHOUT,

Respondent.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

By an order filed March 1, 2010, petitioner was granted an extension of time and ordered to file an application requesting leave to proceed in forma pauperis within thirty days. Petitioner was previously advised that his failure to comply with the court's order would result in the dismissal of this action. The thirty day period has now expired, and petitioner has not responded to the court's order and has not filed an in forma pauperis affidavit.

Accordingly, IT IS HEREBY ORDERED that this case be randomly assigned to a District Judge.

Also, 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 one days after being served with these findings and recommendations, petitioner may file written
2 objections with the court. Such a document should be captioned "Objections to Magistrate
3 Judge's Findings and Recommendations." Petitioner is advised that failure to file objections
4 within the specified time may waive the right to appeal the District Court's order. Martinez v.
5 Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: April 12, 2010.

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9 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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