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

WILLIAM J. WHITSITT,

Plaintiff,

No. CIV S-10-0528 JAM DAD PS

v.

CITY OF TRACY, et al.,

FINDINGS AND RECOMMENDATIONS

Defendants.

\_\_\_\_\_ /

Plaintiff, William Whitsitt, is proceeding in this action pro se and in forma pauperis pursuant to 28 U.S.C. § 1915. The case was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

By order filed August 9, 2011, plaintiff was ordered to submit to the United States Marshal a properly completed USM-285 form, a properly completed summons form, and the number of copies of the endorsed complaint and of the August 9, 2011 order required by the United States Marshal. (Doc. No. 9 at 2.) Plaintiff was provided the address and phone number for the United States Marshals Service. Plaintiff was further ordered that within ten days after submitting the required materials to the United States Marshals Service, plaintiff was to file with this court a declaration stating the date on which he submitted the required documents to the United States Marshal. Plaintiff was warned that failure to file the declaration in a timely manner

1 may result in an order imposing appropriate sanctions. The forty-day period for plaintiff's action  
2 has expired, and plaintiff has not responded to the court's order in any manner.

3 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed  
4 without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

5 These findings and recommendations will be submitted to the United States  
6 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
7 fourteen days after being served with these findings and recommendations, plaintiff may file  
8 written objections with the court. A document containing objections should be titled "Objections  
9 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
10 objections within the specified time may, under certain circumstances, waive the right to appeal  
11 the District Court's order. See *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 DATED: October 7, 2011.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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