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

GILBERT S. MARTINEZ,

Plaintiff,

No. CIV S-10-1485 GGH P

vs.

YOLANDA RODRIGUEZ,

Defendant.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a county inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has filed an in forma pauperis application in which he states that he owns two houses valued at \$2,743,500 and \$610,000, respectively; two cars valued at \$107,000 and \$47,000, respectively; and a motorbike valued at \$87,000. He claims to have cash in excess of \$3,000,000. In sum, plaintiff claims to own property whose approximate total worth is over \$6.5 million.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action “without prepayment of fees or security therefor” by an individual who submits an affidavit evidencing an inability to pay such fees or give security therefor. 28

1 U.S.C. § 1915(a). Plaintiff has made an inadequate showing of indigency in the affidavit before
2 the court. The undersigned will therefore recommend that plaintiff's motion to proceed in forma
3 pauperis be denied, and that, within twenty-eight days of such denial, plaintiff be required to
4 submit the appropriate filing fee to the Clerk of the Court. Plaintiff is cautioned that failure to
5 pay the fee will result in a recommendation that the instant action be dismissed without
6 prejudice.

7 Plaintiff has also filed a motion requesting service on the defendant. As plaintiff
8 has not yet paid the filing fee to commence an action and his complaint has not yet been
9 determined to state a colorable claim under 42 U.S.C. § 1983, the motion is premature.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for service (Doc.
11 No. 6) is denied.

12 Also, IT IS HEREBY RECOMMENDED that plaintiff's motion to proceed in
13 forma pauperis be denied, and that plaintiff be ordered to submit the appropriate filing fee within
14 twenty-eight days from the date of the order denying plaintiff's motion.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
17 days after being served with these findings and recommendations, plaintiff may file written
18 objections with the court. Such a document should be captioned "Objections to Magistrate
19 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
20 within the specified time may waive the right to appeal the District Court's order. Martinez v.
21 Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 DATED: September 15, 2010

23
24 /s/ Gregory G. Hollows

25 UNITED STATES MAGISTRATE JUDGE

26 GGH:14
mart1485.3b