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

WILLIE WEAVER,

Plaintiff,

No. 2:10-cv-1806 GEB JFM (PC)

vs.

J. NGUYEN,

Defendant.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

By an order filed July 21, 2010, plaintiff was ordered to pay the filing fee of three hundred fifty dollars (\$350.00) within twenty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. On August 16, 2010, plaintiff filed a motion for extension of time and notice of change of address in which he represents that he has no property. For the reasons set forth in this court's July 21, 2010 order, plaintiff is barred by the provisions of 28 U.S.C. § 1915(g) from proceeding with this action in forma pauperis. It is apparent from the representation in his motion for extension of time that he is unable to pay the filing fee for this action. Accordingly, plaintiff's motion for extension of time is unnecessary and will be denied, and this action must be dismissed without prejudice.

In accordance with the above, IT IS HEREBY ORDERED that plaintiff's August 16, 2010 motion for extension of time is denied; and

1 IT IS HEREBY RECOMMENDED that this action be dismissed.

2 These findings and recommendations are submitted to the United States District
3 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
4 days after being served with these findings and recommendations, plaintiff may file written
5 objections with the court. The document should be captioned "Objections to Magistrate Judge's
6 Findings and Recommendations." Any response to the objections shall be filed and served
7 within fourteen days after service of the objections. Plaintiff is advised that failure to file
8 objections within the specified time may waive the right to appeal the District Court's order.
9 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: September 15, 2010.

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13 UNITED STATES MAGISTRATE JUDGE

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