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

ERWIN POSADAS,

Petitioner,

No. CIV S-10-1839 DAD P

vs.

AVENAL STATE PRISON, et al.,

Respondents.

ORDER AND

FINDINGS & RECOMMENDATIONS

\_\_\_\_\_ /

By order filed July 29, 2010, petitioner was ordered to, within thirty days, pay the filing fee for this action or file an application to proceed in forma pauperis. Petitioner was also cautioned 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 paid the filing fee, filed an application to proceed in forma pauperis, or responded otherwise to the court’s order.

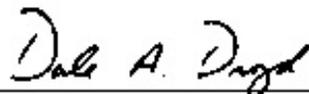
Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to randomly assign a United States District Judge to this action.

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: September 8, 2010.

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10 DALE A. DROZD  
11 UNITED STATES MAGISTRATE JUDGE

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