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

LESTER C. RUSSELL,

Petitioner,

No. CIV S-10-2137 EFB P

vs.

ROCHELLE HAO,

Respondent.

ORDER AND
FINDINGS AND RECOMMENDATIONS

_____/

Petitioner is a prisoner proceeding without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On August 17, 2010, the court found that petitioner had failed to pay the filing fee required by 28 U.S.C. § 1914(a) or a request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). Petitioner was granted thirty days in which to pay the filing fee or file an application to proceed *in forma pauperis* and was warned that failure to comply would result in a recommendation that this action be dismissed.

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1 The 30-day period has expired and petitioner has not paid the filing fee, filed a completed
2 *in forma pauperis* application, or otherwise responded to the court's order.¹

3 Accordingly, it is hereby ORDERED that the Clerk shall randomly assign a United States
4 District Judge to this case; and

5 Further, it is hereby RECOMMENDED that this action be dismissed without prejudice.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
11 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
12 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: September 30, 2010.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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26 ¹ While petitioner filed a "letter to the court" on August 23, 2010, the letter is not responsive to the August 17 order.