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

JOSE H. MAGANA-TORRES,

Petitioner,

No. CIV S-10-2712 EFB (TEMP) P

vs.

LARRY SMALL,

Respondent.

ORDER AND
FINDINGS AND RECOMMENDATIONS

_____/

By an order filed October 18, 2010, petitioner was ordered to file an in forma pauperis affidavit or to pay the appropriate filing fee, within thirty days, or his application would be dismissed. The thirty day period has now expired, and petitioner has not responded to the court's order, has not filed an in forma pauperis affidavit, and has not paid the appropriate filing fee.


IT IS HEREBY ORDERED that this case be assigned to a district judge.

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-one days after being served with these findings and recommendations, petitioner may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the

1 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
2 F.2d 1153 (9th Cir. 1991).

3 DATED: January 12, 2011.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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