

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

KENNETH HAINES,

Plaintiff, No. CIV S-10-3212 EFB P

VS.

JOHN R. RODRIGUEZ,
Defendant.

ORDER AND FINDINGS AND RECOMMENDATIONS

On December 22, 2010, the court found that plaintiff had failed to pay the requisite filing fee or an application for leave to proceed in forma pauperis. The court ordered plaintiff to, within 30 days, either pay the filing fee or submit the application for leave to proceed in forma pauperis, and warned him that failure to do so would result in a recommendation that this action be dismissed.

The 30-day period has expired and plaintiff has not paid the filing fee, submitted an application for leave to proceed *in forma pauperis* or otherwise responded to that order.

Accordingly, it is hereby ORDERED that the Clerk randomly assign a United States District Judge to this case.

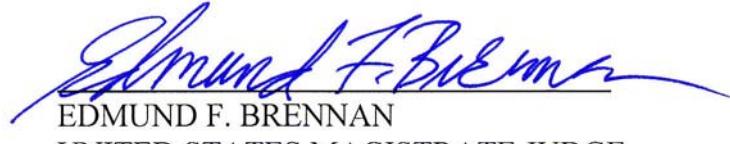
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1 Further, it is RECOMMENDED that this action be dismissed without prejudice.

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

9 Dated: January 31, 2011.

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11 EDMUND F. BRENNAN
12 UNITED STATES MAGISTRATE JUDGE