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

JEFFREY E. WALKER

Plaintiff,

CIV S-11-0636 MCE DAD (TEMP) P

PHILLIPS, et al.

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action under 42 U.S.C. § 1983. On April 11, 2011, the court granted plaintiff, for the second time, thirty days in which to complete his application to proceed in forma pauperis by submitting a certified copy of his prison trust account statement for the six month period immediately preceding the filing of the complaint. In that order the court explained to plaintiff that his application to proceed in forma pauperis was still deficient because the trust account statement he submitted on April 5, 2011, was “without the usual stamp of certification provided by the California Department of Corrections and Rehabilitation.” Order at 1 (Doc. No. 10). The court also noted that plaintiff had provided proper documentation to proceed in forma pauperis in other actions in this district, and informed plaintiff that failure to comply with the order of April 11 would result in a recommendation that this action be dismissed.

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1 Since the court issued the order of April 11, plaintiff has twice demanded to know
2 the status of his case, but he has not submitted a properly certified trust account statement. As
3 stated in the court's order of April 11, plaintiff's failure to present a complete application to
4 proceed in forma pauperis warrants a recommendation of dismissal.¹

5 Accordingly, IT IS HEREBY RECOMMENDED that the complaint be dismissed
6 without prejudice and this case closed.

7 These findings and recommendations are submitted to the United States District
8 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
9 one days after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
12 shall be served and filed within twenty-one days after service of the objections. The parties are
13 advised that failure to file objections within the specified time may waive the right to appeal the
14 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: July 27, 2011.

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18 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

19 hm
20 walk0636.57

21 _____
22 ¹ In any event, it appears that much of plaintiff's case has been rendered moot. Plaintiff
23 indicates in his second request for status that he has been transferred out of California State
24 Prison-Sacramento (CSP-Sacramento), where he was incarcerated when he initiated this lawsuit.
25 In his complaint, he seeks an injunction preventing staff at CSP-Sacramento from placing him in
26 a double cell. When an inmate seeks injunctive or declaratory relief concerning the prison where
he is incarcerated, his claims for such relief become moot when he is no longer subjected to those
conditions. See Weinstein v. Bradford, 423 U.S. 147, 149 (1975); Dilley v. Gunn, 64 F.3d 1365,
1368-69 (9th Cir. 1995). Therefore, even if plaintiff had completed his application to proceed in
forma pauperis, his claims for injunctive relief would not pass the screening requirement of 28
U.S.C. § 1915A, and the undersigned would recommend that those claims be dismissed.

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