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

10 JACK CIVITILLO,

Plaintiff,

No. CIV S-11-1111 KJM DAD P

VS.

CALIFORNIA DEP'T OF CORRECTIONS, et al.,

CORRECTIONS, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

By an order filed August 24, 2011, the court vacated findings and recommendations that were filed on August 2, 2011¹, and plaintiff was provided another opportunity to file an in forma pauperis affidavit or to pay the \$350.00 filing fee, and to file an amended complaint pursuant to the court's May 10, 2011 order. Plaintiff was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not responded to the court's order, has not filed an in forma pauperis affidavit or paid the appropriate filing fee, or filed an amended complaint.

¹ In the August 2, 2011 findings and recommendations, the court recommended that the action be dismissed due to plaintiff's failure to file an amended complaint and a new in forma pauperis application.

Accordingly, 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)(l). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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UNITED STATES MAGISTRATE JUDGE

DATED: September 7, 2011.

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