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

ANTHONY JAMES WILLIAMS,

Petitioner,

No. 2:11-cv-1674 KJN P

vs.

DVI-WARDEN,

ORDER AND

Respondent.

FINDINGS & RECOMMENDATIONS

_____/

By an order filed June 24, 2011, petitioner was ordered to file, within thirty days, an application to proceed in forma pauperis or pay the filing fee, or request the voluntary dismissal of this action without prejudice. Petitioner was cautioned that failure to timely comply with the court’s order would result in a recommendation that this action be dismissed without prejudice.¹ The thirty day period has now expired, and petitioner has not responded to the court’s


¹ The court also noted that petitioner indicated he had not exhausted his state court remedies before filing the instant federal petition. The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of habeas corpus. 28 U.S.C. § 2254(b)(1). Also, petitioner is cautioned that the habeas corpus statute imposes a one year statute of limitations for filing non-capital habeas corpus petitions in federal court. In most cases, the one year period will start to run on the date on which the state court judgment became final by the conclusion of direct review or the expiration of time for seeking direct review, although the statute of limitations is tolled while a properly filed application for state post-conviction or other collateral review is pending. 28 U.S.C. § 2244(d).

1 order and has not filed an application to proceed in forma pauperis or paid the filing fee.

2 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the
3 Court is directed to assign a district judge to this case; and IT IS RECOMMENDED that this
4 action be dismissed without prejudice.

5 These findings and recommendations are submitted to the United States District
6 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
7 one days after being served with these findings and recommendations, petitioner may file written
8 objections with the court. The document should be captioned "Objections to Magistrate Judge's
9 Findings and Recommendations." Petitioner is advised that failure to file objections within the
10 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
11 F.2d 1153 (9th Cir. 1991).

12 DATED: August 15, 2011

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15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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