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

WILLIE WEAVER,

Plaintiff,

No. CIV S-11-2126 JAM GGH P

vs.

GUY GILLEN,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

By an order filed September 20, 2011, plaintiff was ordered to pay the appropriate filing fee within twenty-one days and was cautioned that failure to do so would result in a recommendation that this action be dismissed, as on at least three prior occasions lawsuits filed by plaintiff in this district were dismissed on the grounds that they were frivolous, or malicious or failed to state a claim upon which relief may be granted. See Doc. 5.¹ The twenty-one day period has now expired, and plaintiff has not responded to the court's order or paid the appropriate filing fee.

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¹ Plaintiff never filed an application to proceed in forma pauperis in the instant action, just his complaint.

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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)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections shall be served and filed within fourteen days after service of the objections. The parties are 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).

DATED: November 22, 2011

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

GGH: AB
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