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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	THOMAS FOOTE RISELEY,
11	Plaintiff, No. 2:12-cv-1695 MCE GGH P
12	VS.
13	WARDEN, High Desert State Prison, et al.,
14	Defendants. <u>ORDER</u>
15	/
16	On August 23, 2012, the court directed plaintiff to file an amended complaint
17	within twenty-eight days, and warned plaintiff that his failure to file an amended complaint
18	would result in a recommendation that the action be dismissed. See Doc. No. 7. The court also
19	denied plaintiff's motion to proceed in forma pauperis and directed plaintiff to file a new
20	application. Id. On October 16, 2012, because plaintiff had not responded to the court's August
21	23, 2012 order, the court issued findings and recommendations recommending that the action be
22	dismissed with prejudice. See Doc. No. 8. On October 29, 2012, plaintiff filed a response to the
23	findings and recommendations, advising the court that he objects to dismissal, and asking the
24	court to provide him with a new copy of the August 23, 2012 order as his paperwork was lost by
25	staff during a transfer. See Doc. No. 9 at 2. Plaintiff does not address his failure to file a new
26	application to proceed in forma pauperis.

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1	The court construes plaintiff's objections to request that the court vacate the
2	findings and recommendations, and grant plaintiff an extension of time to file an amended
3	complaint and an application to proceed in forma pauperis. So construed, the motion is granted.
4	Good cause appearing, IT IS HEREBY ORDERED that:
5	1. The findings and recommendations entered October 16, 2012 (Doc. No. 8) are
6	vacated;
7	2. Plaintiff's October 29, 2012 request for a copy of the court's August 23, 2012
8	order, and for an extension of time to comply with the court's August 23, 2012 order (Docket
9	No. 9) is granted;
10	3. The Clerk shall re-serve a copy of the court's August 23, 2012 order on
11	plaintiff, along with an application to proceed in forma pauperis; and
12	3. Plaintiff shall file his amended complaint within 30 days of the filing date of
13	this order. Within 30 days, plaintiff shall also either: (1) file a complete application to proceed in
14	forma pauperis; or (2) pay the entire filing fee for this action. No further extensions shall be
15	granted. Plaintiff's failure (1) to file an amended complaint, and (2) either to pay the filing fee or
16	to file an application to proceed in forma pauperis, within 30 days of the filing date of this order
17	shall result in a recommendation that this action be dismissed with prejudice.
18	DATED: November 6, 2012
19	/s/ Gregory G. Hollows
20	<u>/s/ Gregory G. Hollows</u> UNITED STATES MAGISTRATE JUDGE
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