

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAISEN LEE HENNING,  
Petitioner,  
v.  
E. VALENZUELA,  
Respondent.

No. 2:13-cv-2194-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>1</sup> On October 31, 2013, the court found that petitioner had neither paid the \$5.00 filing fee nor submitted an application to proceed *in forma pauperis*. Accordingly, the court ordered petitioner to pay the filing fee or submit a completed *in forma pauperis* application. ECF No. 4. The order gave petitioner 30 days to pay the fee or file the required application and warned him that failure to do so may result in this action being dismissed. *Id.*

The 30-day period has expired and petitioner has not filed a completed an *in forma pauperis* affidavit or otherwise responded to the court’s order.

////

---

<sup>1</sup> Petitioner did not respond to the court’s order directing him to complete and return the form indicating either his consent to the jurisdiction of the magistrate judge or request for reassignment to a district judge. Accordingly, the clerk will be directed to randomly assign this case to a district judge, and petitioner’s request for a six month extension of time to return the form is denied.

1           Accordingly, it is hereby ORDERED that the Clerk randomly assign a United States  
2 District Judge to this case.

3           Further, it is hereby RECOMMENDED that this action be dismissed without prejudice.

4           These findings and recommendations are submitted to the United States District Judge  
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
6 after being served with these findings and recommendations, any party may file written  
7 objections with the court and serve a copy on all parties. Such a document should be captioned  
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
9 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
10 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In  
11 his objections petitioner may address whether a certificate of appealability should issue in the  
12 event he files an appeal of the judgment in this case. *See* Rule 11, Federal Rules Governing  
13 Section 2254 Cases (the district court must issue or deny a certificate of appealability when it  
14 enters a final order adverse to the applicant).

15 Dated: December 3, 2013.

16   
17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28