UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHESTER WHEELER,

Petitioner,

v.

ERIC ARNOLD,

Respondent.

No. 2:15-cv-0688-EFB P

ORDER AND FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner, proceeds pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On March 31, 2015, the court found that petitioner had failed to file an in forma pauperis application or pay the filing fee ($5.00) required by 28 U.S.C. §§ 1914(a) & 1915(a). Accordingly, the court ordered petitioner to file a completed in forma pauperis application or pay the filing fee within 30 days. That order warned petitioner that failure to do so may result in this action being dismissed.

The 30-day period has expired and petitioner has not filed a completed in forma pauperis affidavit, paid the filing fee or otherwise responded to the court's order.

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

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Further, it is hereby RECOMMENDED that this action be dismissed. *See* Fed. R. Civ. P. 41(b); Rule 12, Rules Governing § 2254 Cases; Local Rule 110.

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, 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. Failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In his objections petitioner may address whether a certificate of appealability should issue in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant).

Dated: May 7, 2015.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE