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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES O. MOLEN,
Petitioner,
v.
CONRAD M. GRABER,
Respondent.

No. 2:15-cv-2141 KJM CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

On November 6, 2015, petitioner was ordered to file a request to proceed in forma pauperis or pay the \$5.00 filing fee for the action within thirty days. Petitioner was warned that failure to do so would result in a recommendation that this action be dismissed. Petitioner has neither filed a request to proceed in forma pauperis nor paid the filing fee.

Furthermore, petitioner fails to state any valid basis for relief. While it is not entirely clear, it appears that petitioner is seeking a writ of habeas corpus on the ground that the district court judge in his criminal action, 2:12-cr-0252 TLN, did not have subject matter jurisdiction to sentence petitioner. If that is petitioner's claim, petitioner would have to file a motion in his criminal case pursuant to 28 U.S.C. § 2255, not initiate a separate action as he has done here. See Porter v. Adams, 244 F.3d 1006 (9th Cir. 2001).

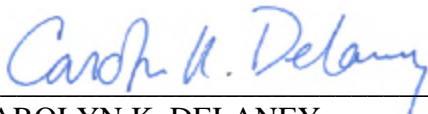
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1 In accordance with the above, IT IS HEREBY ORDERED that all outstanding motions
2 (ECF Nos. 13-15) are denied; and

3 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, petitioner may file written
7 objections with the court. The document should be captioned "Objections to Magistrate Judge's
8 Findings and Recommendations." Petitioner is advised that failure to file objections within the
9 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
10 F.2d 1153 (9th Cir. 1991).

11 Dated: April 6, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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