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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUSTAVO C. PARTIDA,
Plaintiff,
v.
ALEXANDER LIU, et al.,
Defendants.

No. 2:17-cv-0694 WBS KJN P
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel. By an order filed April 12, 2017, plaintiff was ordered to file a completed in forma pauperis affidavit, and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not filed the required documents.


On May 3, 2017, plaintiff filed an amended complaint, as well as a list of dates in which he states he sent forms to the trust withdrawal department, all of which pre-date the filing of this action. (ECF No. 7.) In the April 12, 2017 order, the court explained that because plaintiff is in the custody of the California Department of Corrections and Rehabilitation (“CDCR”), the CDCR will provide plaintiff’s certified financial information directly to the court, but that plaintiff must provide a signed and dated application to proceed in forma pauperis. (ECF No. 3 at 2.) In other words, plaintiff is not required to provide a certified trust account statement because prison officials submit it directly to the court. However, if plaintiff seeks leave to proceed in forma

1 pauperis, he must sign, date, and return the application to proceed in forma pauperis. Despite this
2 explanation in the April 12, 2017 order, plaintiff has failed to provide an application to proceed in
3 forma pauperis or pay the court's filing fee. This action cannot proceed unless plaintiff pays the
4 filing fee or files an application to proceed in forma pauperis.

5 In accordance with the above, IT IS HEREBY RECOMMENDED that this action be
6 dismissed without prejudice.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
12 objections shall be filed and served within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: May 15, 2017

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE

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