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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEENAN W. WILKINS,
Plaintiff,
v.
DAVID BAUGHMAN, et al.,
Defendants.

No. 2:17-cv-1368 TLN KJN P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On September 19, 2018, the Honorable Troy L. Nunley revoked plaintiff’s in forma pauperis status and ordered plaintiff to pay the filing fee within thirty days. (ECF No. 17.) Thirty days passed and plaintiff did not pay the filing fee. Accordingly, the undersigned recommends that this action be dismissed.

Plaintiff has also requested that this action be stayed pending his appeal of Judge Mueller’s order in 2:16-cv-347 KJM KJN P directing plaintiff to pay the filing fee. (ECF No. 14.) Court records indicate that the Ninth Circuit dismissed plaintiff’s appeal of Judge Mueller’s order for plaintiff’s failure to prosecute. (See 16-cv-347; ECF No. 70.) Accordingly, plaintiff’s motion to stay this action pending his appeal of Judge Mueller’s order should be denied.

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Accordingly, IT IS HEREBY RECOMMENDED that:

1. Plaintiff's motion to stay this action pending his appeal of Judge Mueller's order (ECF No. 14) be denied;
2. This action be dismissed for plaintiff's failure to pay the filing fee.

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)(1). 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 response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: November 16, 2018


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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