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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,
Plaintiff,
v.
CITY OF TRACY, CALIFORNIA, et al.
Defendants.

No. 2:18-cv-1962-KJM-KJN PS

FINDINGS AND RECOMMENDATION

On July 19, 2018, the court denied plaintiff's motion to proceed *in forma pauperis* and ordered plaintiff to pay the filing fee on a set installment schedule of \$50 per month. (ECF No. 3.) Thereafter, plaintiff filed an objection to the court's order, outlining certain additional expenses which he failed to include in the original motion to proceed *in forma pauperis*. (ECF No. 4.)

On September 26, 2018, the court issued an order sustaining plaintiff's objection in part. (ECF No. 5.) For the reasons discussed in that order, incorporated here by reference, the court modified plaintiff's payments to \$20.00 per month, with payments to the Clerk of Court due on the first business day of each month starting in November 2018. (Id.) Plaintiff was expressly cautioned that failure to timely pay the amounts due may result in dismissal of the action. (Id.)

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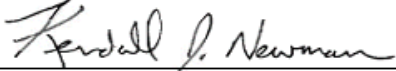
1 To date, although installment payments were due on November 1, 2018, and December 3,
2 2018, plaintiff has failed to make any payment, nor has he requested an extension of time to do so
3 based on any articulated cause. Therefore, at this juncture, the court recommends that the action
4 be dismissed without prejudice.

5 Accordingly, IT IS HEREBY RECOMMENDED that:

- 6 1. The action be dismissed without prejudice.
- 7 2. The Clerk of Court be directed to close this case.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
10 days after being served with these findings and recommendations, any party may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
13 shall be served on all parties and filed with the court within fourteen (14) days after service of the
14 objections. The parties are advised that failure to file objections within the specified time may
15 waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th
16 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

17 Dated: December 10, 2018

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE
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