UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 DWAYNE ANDERSON, 12

No. 2:19-cv-1667-EFB P

RECOMMENDATIONS

ORDER AND FINDINGS AND

13

v.

Plaintiff.

Defendant.

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Plaintiff is a Tennessee state prisoner proceeding without counsel in this civil action. On August 30, 2019, this court found that plaintiff had failed to pay the \$400 filing fee required by 28 U.S.C. § 1914(a) or request leave to proceed in forma pauperis and submit the affidavit and

20 trust account statement required by 28 U.S.C. § 1915(a). Accordingly, the court directed the 21 Clerk to send plaintiff an Application to Proceed In Forma Pauperis, ordered plaintiff to submit

the filing fee or completed application within thirty days and warned plaintiff that failure to do so

23 may result in this action being dismissed. ECF No. 3. The time for acting has passed and

plaintiff has not paid the required filing fee or submitted the completed application for leave to

25 proceed in forma pauperis. Instead, he has filed a "Notice of Incorrect Filing and Notice of

Objections" stating that he objects to being forced to do either. ECF No. 4. Unfortunately, this

action cannot proceed unless plaintiff pays the fee or seeks leave to proceed in forma pauperis.

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

Further, it is RECOMMENDED that this action be dismissed without prejudice.

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 response to the objections shall be served and filed 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. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: October 7, 2019.

EĎMUND F. BRĚNNAN

UNITED STATES MAGISTRATE JUDGE