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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRODY JAMES SMITH,
Petitioner,
v.
NEVADA COUNTY JAIL,
Respondent.

Case No. 2:23-cv-01745-JDP (HC)
**ORDER DIRECTING THE CLERK OF
COURT TO RANDOMLY ASSIGN A
UNITED STATES DISTRICT JUDGE**
**FINDINGS AND RECOMMENDATIONS
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PAY THE FILING FEE,
FAILURE TO PROSECUTE, AND FAILURE
TO COMPLY WITH COURT ORDERS**
**OBJECTIONS DUE WITHIN FOURTEEN
DAYS**

On August 22, 2023, I directed petitioner to either pay the required filing fee or submit a complete application to proceed *in forma pauperis*. ECF No. 3. I granted him thirty days to comply. *Id.* When petitioner did not, I ordered him, on October 13, 2023, to show cause within twenty-one days why this action should not be dismissed for his failure to pay the filing fee, failure to prosecute, and failure to comply with court orders. ECF No. 4. I notified him that if he wished to continue with this action he must, within twenty-one days, either pay the required filing fee or submit a complete application to proceed *in forma pauperis*. *Id.* I also warned him that failure to comply with that order would result in a recommendation that this action be dismissed.

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Id.

The deadline has passed, and petitioner has neither complied with nor responded to the October 13 order. Accordingly, it is hereby ORDERED that the Clerk of Court shall randomly assign a United States District Judge to this case.

Further, it is hereby RECOMMENDED that:

1. This action be dismissed without prejudice for failure to pay the filing fee, failure to prosecute, and failure to comply with court orders, for the reasons set forth in the court’s October 13, 2023 order.

2. The Clerk of Court be directed to close the case.

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 of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response shall be served and filed within fourteen days of 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).

IT IS SO ORDERED.

Dated: November 30, 2023



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE