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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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GENE D. WALTZ,
Plaintiff,
v.
JEFFREY BEARD,
Defendant.

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Case No. 13-cv-03780-JST (PR)

ORDER OF DISMISSAL

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On August 14, 2013, Gene D. Waltz, a California state prisoner, mailed to the Court a document entitled "Request for Emergency Injunctive Relief." The Clerk filed the document as a new action and assigned it to the undersigned. The Clerk also advised Waltz that the action was deficient because Waltz did not pay the requisite \$400.00 filing fee or, instead, submit a signed and completed court-approved in forma pauperis application, including a completed certificate of funds in the prisoner's account and a copy of the prisoner's trust account statement for the last six months. See 28 USC § 1915(a)(2). Waltz was advised that failure to file the requested items within 28 days would result in dismissal of the action.

Waltz has responded by explaining that the document he submitted was not intended as a new action, but as a request for intervention by the three judge panel in Plata v Schwarzenegger, No C 01-1351 TEH (PR). Good cause appearing, this action is therefore DISMISSED as improvidently opened.

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1 The Clerk shall forward a copy of Waltz's August 14, 2013 "Request for Emergency
2 Injunctive Relief" (Dkt. No. 1), and this Order to Judge Thelton Henderson via his courtroom
3 deputy. No filing fee is due. The Clerk shall close the file.

4 **IT IS SO ORDERED.**

5 Dated: September 5, 2013

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7 JON S. TIGAR
8 United States District Judge

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