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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH RUSSELL JUDD,

Plaintiff,

No. CIV S-11-1557 JAM DAD PS

vs.

SECRETARY OF STATE OF  
CALIFORNIA and STATE OF  
CALIFORNIA,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a federal prisoner proceeding pro se with this action. By order filed July 6, 2011, the court denied plaintiff's defective application for waiver of filing fees and costs. As directed by the court, the Clerk of the Court sent plaintiff a proper in forma pauperis application form. Plaintiff was granted 45 days in which to obtain a trust account statement and submit it with a properly completed in forma pauperis application on the form provided by the court. Plaintiff was also cautioned that failure to comply with the court's order would result in a recommendation that this action be dismissed without prejudice.

Plaintiff responded by filing with the court a document styled "Motion to Reopen and Stay Proceedings." The court cannot reopen proceedings that have not been closed, and plaintiff has cited no applicable legal authority for his motion to stay proceedings. Accordingly,

1 plaintiff's motion filed July 11, 2011 will be denied. Plaintiff's additional filings on August 11,  
2 2011 and October 20, 2011 demonstrate that he does not intend to comply with the requirements  
3 of 28 U.S.C. § 1915.<sup>1</sup>

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff's July 11, 2011 motion to reopen and stay proceedings (Doc. No. 6) is  
6 denied;

7 2. Plaintiff's August 11, 2011 further application for waiver of filing fees (Doc.  
8 No. 7) is denied;

9 3. Plaintiff's defective motion to proceed in forma pauperis filed October 20,  
10 2011 (Doc. No. 8) is denied; and

11 IT IS RECOMMENDED that this action be dismissed without prejudice due to  
12 plaintiff's failure to pay the required filing fee or file a properly completed application to proceed  
13 in forma pauperis on the form provided by the court.

14 These findings and recommendations will be submitted to the United States  
15 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
16 fourteen days after being served with these findings and recommendations, plaintiff may file  
17 written objections with the court. A document containing objections should be titled "Objections  
18 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file

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24 <sup>1</sup> In those filings plaintiff argues that this court should waive filings fees in connection  
25 with this action merely because other federal courts have waived filing fees in cases which he has  
26 pursued. He also contends that under the 24th Amendment, filing fees are a prohibited tax and  
cannot be collected in connection with this voting rights action. Plaintiff also advances other  
frivolous arguments in support of his contention that he should not be required to comply with  
the requirements of 28 U.S.C. § 1915.

1 objections within the specified time may, under certain circumstances, waive the right to appeal  
2 the District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: November 4, 2011.

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7 DALE A. DROZD  
8 UNITED STATES MAGISTRATE JUDGE

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