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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KEVIN ROBERSON,

CASE NO. 1:08-cv-00214-AWI-MJS (PC)

Plaintiff,

FINDINGS AND RECOMMENDATION  
RECOMMENDING CASE BE DISMISSED  
FOR FAILURE TO STATE A CLAIM AND  
FAILURE TO COMPLY WITH COURT  
ORDER

v.

S. ZAMORA, et al.,

Defendants.

(ECF No. 24)

\_\_\_\_\_/ OBJECTIONS DUE MARCH 20, 2011

**SHOW CAUSE ORDER**

Plaintiff Kevin Roberson ("Plaintiff") is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on February 11, 2008. (ECF No. 1.) He has since filed three amended complaints: First Amended Complaint on February 15, 2008, Second Amended Complaint on March 24, 2008, and Third Amended Complaint on April 15, 2009. (ECF Nos. 4, 6, & 21.) No other parties have appeared in this action.

On January 12, 2011, Plaintiff's Third Amended Complaint was dismissed for failure

1 to state a claim. (ECF No. 24.) Plaintiff was given thirty days to file an amended complaint  
2 and was warned that failure to do so would result in dismissal of this action. (Id.) Nothing  
3 further has been filed.

4  
5 Local Rule 11-110 provides that “failure of counsel or of a party to comply with these  
6 Local Rules or with any order of the Court may be grounds for the imposition by the Court  
7 of any and all sanctions . . . within the inherent power of the Court.” District courts have  
8 the inherent power to control their dockets and “in the exercise of that power, they may  
9 impose sanctions including, where appropriate . . . dismissal of a case.” Thompson v.  
10 Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with  
11 prejudice, based on a party’s failure to prosecute an action, failure to obey a court order,  
12 or failure to comply with local rules. See, e.g., Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61  
13 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of  
14 complaint); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for  
15 failure to prosecute and failure to comply with local rules).  
16

17 The Court previously found that Plaintiff’s Third Amended Complaint failed to state  
18 a claim upon which relief could be granted and dismissed the pleading. More than thirty  
19 days have passed and Plaintiff has not filed an amended complaint or otherwise  
20 responded to the Court’s January 12, 2011 Order. Thus, there is no pleading that sets  
21 forth a cognizable claim. The Court cannot allow this case to languish on its docket without  
22 an operative complaint. Accordingly, the Court recommends that this case be dismissed  
23 for failure to state a claim upon which relief could be granted and failure to obey a court  
24 order.  
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26 These Findings and Recommendations are submitted to the United States District  
27

1 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Not  
2 later than March 20, 2011, Plaintiff may file written objections with the Court and serve a  
3 copy on all parties. Such a document should be captioned "Objections to Magistrate  
4 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections  
5 within the specified time may waive the right to appeal the District Court's order. Martinez  
6 v. Ylst, 951 F.2d 1153 (9th Cir. 1991).  
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9 IT IS SO ORDERED.

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11 Dated: March 7, 2011

Isl. Michael J. Song  
12 UNITED STATES MAGISTRATE JUDGE  
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