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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL CHAVEZ,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:09-cv-01080-OWW-SKO PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
ACTION WITH PREJUDICE FOR FAILURE
TO STATE A CLAIM UNDER SECTION 1983
OR THE ADA, AND DIRECTING CLERK OF
COURT TO ENTER JUDGMENT

(Docs. 9 and 11)

ORDER COUNTING DISMISSAL AS A
STRIKE UNDER 28 U.S.C. § 1915(G)

_____ /

Plaintiff Michael Chavez, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 12132 (the Americans with Disabilities Act (ADA)) on June 19, 2009. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 1, 2011, the Magistrate Judge screened Plaintiff's amended complaint and recommended dismissal of this action for failure to state a claim. 28 U.S.C. § 1915A. After receiving two extensions of time, Plaintiff filed his objection on July 5, 2011.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Court adopts the Findings and Recommendations filed on April 1, 2011, in full;
- 3 2. This action is dismissed, with prejudice, for failure to state a claim under section
- 4 1983 or the ADA;
- 5 3. The Clerk of the Court shall enter judgment against Plaintiff; and
- 6 4. This dismissal counts as a strike under 28 U.S.C. § 1915(g).

7

8 IT IS SO ORDERED.

9 Dated: July 8, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE