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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO P. YOUMANS,

CASE NO. 1:11-cv-00240-LJO-SMS PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DISMISSAL OF ACTION, WITH PREJUDICE,
FOR FAILURE TO STATE A CLAIM

v.

W. GARDNER, et al.,

(ECF No. 14)

Defendants.

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

Plaintiff Antonio P. Youmans (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. 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 May 10, 2011, the Magistrate Judge issued [findings and recommendations](#) recommending that the action be dismissed for failure to state a claim. The parties were given thirty days within which to file objections, and none were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this 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.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations, filed May 10, 2011, is adopted in full;
2. This action, is dismissed, with prejudice, based on Plaintiff’s failure to state a claim upon which relief may be granted under section 1983;

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- 3. This dismissal shall count as a strike pursuant to 28 U.S.C. § 1915(g); and
- 4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: June 29, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE