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

STEPHEN BERRY,

Plaintiff,

No. CIV S-10-0051 MCE EFB P

vs.

S.M. SALINAS, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On November 9, 2010, the court dismissed plaintiff’s first amended complaint for failure to state a cognizable claim. The dismissal order explained the complaint’s deficiencies, gave plaintiff 30 days to file an amended complaint correcting those deficiencies, and warned plaintiff that failure to file an amended complaint would result in a recommendation that this action be dismissed. On December 1, 2010, plaintiff was granted an additional 90 days in which to file an amended complaint.

The 90-day period has expired and plaintiff has not filed an amended complaint or otherwise responded to the court’s order.

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1 Accordingly, it is hereby RECOMMENDED that this action be dismissed for failure to
2 state a claim. 28 U.S.C. §§ 1915(g), 1915A.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
8 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: April 7, 2011.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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