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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SABINO NUNEZ GUDINO,

CASE NO. 1:05-cv-00954-LJO-SKO PC

Plaintiff,

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF ACTION
FOR FAILURE TO STATE A CLAIM

v.

B.C. ADAMS, et al.,

OBJECTIONS DUE WITHIN 30 DAYS

Defendants.

_____/

Plaintiff Sabino Nunez Gudino (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to [42 U.S.C. § 1983](#). On January 25, 2010, the Court screened Plaintiff’s first amended complaint pursuant to [28 U.S.C. § 1915A](#) and found that Plaintiff’s first amended complaint failed to state a claim upon which relief can be granted under [Section 1983](#). (Doc. #18.) Plaintiff was informed of the deficiencies in his claims and was directed to file a second amended complaint. Plaintiff received numerous extensions of time to file his second amended complaint -- the latest in an April 5, 2010 order extending the deadline to thirty (30) days after the date of service of the April 5, 2010 order. Plaintiff has not filed an amended complaint and has not requested any further extension of time.

Because Plaintiff has not filed an amended complaint, the Court will recommend dismissal of this action with prejudice for failure to state a claim upon which relief can be granted. See [Ferdik v. Bonzelet, 963 F.2d 1258, 1261 \(9th Cir. 1992\)](#)(dismissal with prejudice upheld where court had instructed plaintiff regarding deficiencies in prior order dismissing claim with leave to amend).

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1 Accordingly, it is HEREBY RECOMMENDED that this action be dismissed for failure to
2 state a claim upon which relief can be granted.

3 These Findings and Recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within thirty (30)
5 days 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.” Any reply to the objections
8 shall be served and filed within ten (10) days after service of the objections. The parties are advised
9 that failure to file objections within the specified time may waive the right to appeal the District
10 Court’s order. [Martinez v. Ylst, 951 F.2d 1153 \(9th Cir. 1991\)](#).

11
12 IT IS SO ORDERED.

13 **Dated:** May 22, 2010

 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE