

1 Noll v. Carlson, 809 F. 2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies
2 and opportunity to amend prior to dismissing for failure to state a claim).

3 Accordingly, it is HEREBY RECOMMENDED that the California Department of
4 Corrections and Rehabilitation be dismissed.

5 These Findings and Recommendations will be submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30)**
7 **days** after being served with these Findings and Recommendations, plaintiff may file written
8 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
9 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
10 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
11 1153 (9th Cir. 1991).

12
13 IT IS SO ORDERED.

14 **Dated: February 11, 2009**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE