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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAURA L. MEDLEY,

Plaintiff,

v.

N. COOPER,

Defendant.

CASE NO. 1:07-cv-01774-AWI DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION, WITH PREJUDICE, FOR FAILURE
TO STATE A CLAIM UPON WHICH RELIEF
MAY BE GRANTED

(Doc. 12)

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Plaintiff Laura Medley (“plaintiff”) is a former state prisoner proceeding pro se 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 72-302.

On October 22, 2008, the Magistrate Judge filed a [Findings and Recommendations](#) that recommended the action be dismissed for Plaintiff’s failure to state a claim. The Findings and Recommendations were served on plaintiff and contained notice to plaintiff that any objection to the Findings and Recommendations was to be filed within thirty days. Plaintiff did not file a timely Objection to the Findings and Recommendations.

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. On August 26, 2008, the court found that the original complaint did not state a claim, court gave Plaintiff notice of the complaint's pleading deficiencies, and granted Plaintiff an opportunity to amend. See Lopez v.

1 Smith, 203 F.3d 1122 (9th Cir. 2000) (if court determines that complaint fails to state claim, leave
2 to amend may be granted to extent that complaint's deficiencies can be cured); Noll v. Carlson, 809
3 F. 2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to
4 amend prior to dismissing for failure to state a claim). Because Plaintiff never filed an amended
5 complaint, this action is subject to dismissal for Plaintiff's failure to state a claim as set forth in the
6 court's August 26, 2008 order dismissing the complaint for failure to state a claim.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Findings and Recommendations, filed October 22, 2008, is adopted in full; and
- 9 2. This action be dismissed, with prejudice, based on Plaintiff's failure to state any
10 claims upon which relief may be granted under section 1983.

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12 IT IS SO ORDERED.

13 **Dated:** January 30, 2009

14 /s/ Anthony W. Ishii
15 CHIEF UNITED STATES DISTRICT JUDGE
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