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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

AUSTIN WILLIS,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:08-cv-00125-OWW-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DISMISSING THE
ACTION WITH PREJUDICE FOR
PLAINTIFF’S FAILURE TO STATE A CLAIM

(Docs. 14 and 15)

STRIKE PER 28 U.S.C. § 1915(g)

Plaintiff Austin Willis 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 October 23, 2009, the Magistrate Judge screened Plaintiff’s Second Amended Complaint and issued Findings and Recommendations recommending dismissal of this action with prejudice for failure to state a claim. After requesting and receiving extensions, Plaintiff submitted timely objections which were filed on May 3, 2010.

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 October 23, 2009, is adopted in full;
2. This action is dismissed with prejudice for Plaintiff’s failure to state a claim;

3. Dismissal of this action counts as a strike pursuant to 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

Dated: May 10, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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