UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROY A. MASON,

Plaintiff,

v.

HARTLEY, et al.,

Defendants.

/

1:08-cv-00197-LJO-GSA-PC

FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT THIS ACTION BE DISMISSED, WITH PREJUDICE, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED (Doc. 9.

OBJECTIONS, IF ANY, DUE WITHIN THIRTY DAYS

Roy A. Mason ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on February 8, 2008, and on July 22, 2009, Plaintiff filed the First Amended Complaint. (Docs. 1, 9.)

On March 3, 2011, the undersigned dismissed Plaintiff's First Amended Complaint for failure to state a claim upon which relief may be granted and gave Plaintiff leave to file a Second Amended Complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc.10.) To date, Plaintiff has not complied with or otherwise responded to the Court's order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted under section 1983.

Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), the undersigned HEREBY RECOMMENDS that this action be dismissed, with prejudice, based on Plaintiff's failure to state any claims upon which relief may be granted under section 1983.

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

IT IS SO ORDERED.

Dated: **April 20, 2011** **/s/ Gary S. Austin**
UNITED STATES MAGISTRATE JUDGE