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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

EDWARD HEWITT,	CASE NO. 1:09-cv-00661-AWI-GBC (PC)
Plaintiff,	FINDINGS AND RECOMMENDATION
v.	RECOMMENDING DISMISSAL OF
STATE OF CALIFORNIA, et al.,	PLAINTIFF'S ACTION WITH PREJUDICE
Defendants.	FOR FAILURE TO STATE A CLAIM
	OBJECTIONS DUE WITHIN THIRTY DAYS

**FINDINGS AND RECOMMENDATION**

Plaintiff Edward Hewitt ("Plaintiff") is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 25, 2011, the Court dismissed Plaintiff's Second Amended Complaint, with leave to amend, for failure to state a claim. (ECF No. 23.) Plaintiff was ordered to file an amended complaint within thirty days. (Id.) Plaintiff also was warned that failure to comply with the Court's Order may result in dismissal of this action for failure to state a claim upon which relief could be granted. (Id.)

On August 22, 2011, the Court issued a Show Cause Order. (ECF No. 27.) The Show Cause Order again warned Plaintiff that the case would be dismissed if Plaintiff

1 failed to respond to the Order and/or file an amended complaint by September 26, 2011.  
2 (Id.) To date, the Court has not received a response to the Show Cause Order and Plaintiff  
3 has not filed an amended complaint. As a result, there is no pleading on file which sets  
4 forth any claims upon which relief may be granted.  
5

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

9 These Findings and Recommendation will be submitted to the United States District  
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
11 thirty (30) days after being served with these Findings and Recommendation, the parties  
12 may file written objections with the Court. The document should be captioned "Objections  
13 to Magistrate Judge's Findings and Recommendation." The parties are advised that failure  
14 to file objections within the specified time may waive the right to appeal the District Court's  
15 order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).  
16

17 IT IS SO ORDERED.

18  
19 Dated: October 3, 2011

  
UNITED STATES MAGISTRATE JUDGE