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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO CANDELARIO,

Plaintiff,

v.

GARZA, et al.,

Defendants.

CASE NO. 1:09-CV-00762-LJO-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION FOR FAILURE TO OBEY A
COURT ORDER, FAILURE TO
PROSECUTE, AND FAILURE TO STATE A
CLAIM

(DOCS. 9, 11)

DISMISSAL COUNTS AS STRIKE
PURSUANT TO 28 U.S.C. § 1915(G)

Plaintiff Antonio Candelario (“Plaintiff”) is formerly a prisoner in the custody of the California Department of Corrections and Rehabilitation. Plaintiff is 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.

Plaintiff filed his complaint on April 29, 2009. On September 29, 2009, the Court screened Plaintiff’s complaint and found that it failed to state any claims. Plaintiff’s complaint was dismissed with leave to file an amended complaint. Plaintiff did not update the Court as to his current address. On December 29, 2009, the Magistrate Judge filed a [Findings and Recommendation](#) recommending dismissal of this action for failure to prosecute. On March 1, 2010, Plaintiff notified the Court of a change of address, and the Magistrate Judge’s December 29, 2009 Findings and Recommendation was re-served on Plaintiff. Plaintiff still failed to respond. On August 4, 2010, the Magistrate Judge filed a [Findings and Recommendations](#) recommending dismissal of this action for failure to obey a court order and failure to state a

1 claim. Plaintiff did not file a timely Objection to the Findings and Recommendations, and failed
2 to update this Court as to his current address.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a de
4 novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings
5 and Recommendations to be supported by the record and by proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The [Findings and Recommendations](#), filed August 4, 2010, is adopted in full;
- 8 2. The [Findings and Recommendations](#), filed December 29, 2009, is adopted in full;
- 9 3. This action is dismissed for failure to obey a court order, failure to prosecute, and
10 failure to state a claim; and
- 11 4. This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

12 The clerk is directed to close this action.

13
14 IT IS SO ORDERED.

15 Dated: October 26, 2010

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE