

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

OLDEN TAYLOR, 1:09-cv-01094-OWW-GSA-PC

Plaintiff,

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION BE
DISMISSED, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED
(Doc. 1.)

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

OBJECTIONS, IF ANY, DUE WITHIN
THIRTY DAYS

Plaintiff Olden Taylor (“Plaintiff”) is a former state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on June 22, 2009. (Doc. 1.)

On December 11, 2009, the undersigned dismissed Plaintiff's complaint for failure to state a claim upon which relief may be granted and gave Plaintiff leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc.13.) Plaintiff requested and was granted an extension of time in which to file the amended complaint. (Docs. 14, 15.) To date, Plaintiff has not complied with or otherwise responded to the Court's order.¹ As a result, there is no pleading on file which sets forth any claims upon which relief may be granted under section 1983.

¹ On January 14, 2010, plaintiff filed a notice of change of address to a street address in Rialto, California. (Doc. 16.) On January 25, 2010, the court served a copy of the order granting plaintiff's extension of time upon plaintiff at his new address, and the mail was not returned. (See Court Docket.) Due to the service on January 25, 2010, plaintiff's deadline to file the amended complaint was March 1, 2010. Therefore, more than forty-five days have passed, and plaintiff has not complied with the court's order.

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)(1). 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 21, 2010

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE
