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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONEY LYNCH,

1:09-cv-02097-AWI-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. 28.)

v.

WARDEN OF PLEASANT VALLEY
STATE PRISON, et al.,

Defendant.

OBJECTIONS, IF ANY, DUE IN THIRTY
DAYS

_____ /

Anthony Lynch ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 2, 2009. (Doc. 1.) On April 14, 2011, the Court dismissed Plaintiff's Complaint for failure to state a claim, with leave to amend. (Doc. 13.) On October 12, 2011, Plaintiff filed the First Amended Complaint, adding two co-plaintiffs, Thibodeaux and Willie Jones. (Doc. 22.) On May 1, 2012, the Court dismissed the First Amended Complaint for failure to state a claim, and severed the three plaintiffs' claims, opening new cases for the two co-plaintiffs. (Doc. 28.) Plaintiff was granted leave to file a Second Amended Complaint within thirty days. Id. 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.

1 Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. § 1915A and
2 28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff's failure to state
3 a claim upon which relief may be granted under section 1983, and that this dismissal be subject to
4 the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098
5 (9th Cir. 2011).

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days
8 after being served with these findings and recommendations, Plaintiff may file written objections
9 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
10 and Recommendations." Plaintiff is advised that failure to file objections within the specified time
11 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
12 1991).

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14 IT IS SO ORDERED.

15 Dated: June 13, 2012

16 /s/ Gary S. Austin
17 UNITED STATES MAGISTRATE JUDGE
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