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7 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10 BIRMER FERNANDEZ,

11 Plaintiff,

12 v.

13 JAMES YATES, et al.,

14 Defendants.  
15 \_\_\_\_\_

No. 1:10 cv 1045 AWI GSA (PC)

ORDER RE: FINDINGS &  
RECOMMENDATIONS

Document # 11

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17 Plaintiff is a state prisoner proceeding pro se in this civil rights action. The matter was  
18 referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule  
19 302.

20 On June 20, 2011, [findings and recommendations](#) were entered, recommending dismissal  
21 of this action for failure to state a claim upon which relief can be granted. Plaintiff was provided  
22 an opportunity to file objections within twenty days. Plaintiff has not filed objections to the  
23 findings and recommendations.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 305, this  
25 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the  
26 court finds the findings and recommendations to be supported by the record and proper analysis.  
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Accordingly, THE COURT HEREBY ORDERS that:

1. The Findings and Recommendations issued by the Magistrate Judge on June 20, 2011, are adopted in full;
2. This action is dismissed for failure to state a claim upon which relief can be granted;
3. The Clerk is directed to close this case; and
4. This dismissal shall count as a strike under 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

Dated: July 22, 2011

  
CHIEF UNITED STATES DISTRICT JUDGE