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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 JEROME A. PORTER-BEY,

9 Plaintiff

10 v.

11 HARLEY LAPPIN, et al.,

12 Defendants.
13

CASE No. 1:10-cv-01540-AWI-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS,
RECOMMENDING THIS ACTION BE
DISMISSED, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM

(ECF No. 13)

14 Plaintiff Jerome A. Porter (“Plaintiff”), a state prisoner proceeding pro se, filed this civil
15 rights action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*,
16 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors. The
17 matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and
18 Local Rule 302.

19 On May 2, 2013, the Magistrate Judge dismissed the action for failure to state a claim and
20 gave Plaintiff leave to amend within thirty days. (ECF No. 12) In the order filed on May 2, 2013,
21 the Court warned Plaintiff that if he failed to file an amended complaint in compliance with the
22 order, this action would be dismissed, with prejudice, for failure to state any claims. Plaintiff did
23 not file an amended complaint. On June 20, 2013, the Magistrate Judge issued a findings and
24 recommendation recommending this action be dismissed, with prejudice, for failure to state a
25 claim. (ECF No. 13.) Plaintiff did not file any objections to the findings and recommendations.

26 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this
27 case. Having carefully reviewed the entire file, the Court finds the findings and recommendations
28 to be supported by the record and by proper analysis.

1 Accordingly, it is HEREBY ORDERED that:

- 2 1. The Court adopts the findings and recommendations filed on June 20, 2013, in full;
- 3 2. This action is dismissed, with prejudice, based on Plaintiff's failure to state a claim
4 upon which relief may be granted under section 1983;
- 5 3. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. §
6 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098-99 (9th Cir. 2011); and
- 7 4. The Clerk of the Court is directed to close this case.

8 IT IS SO ORDERED.

9 Dated: November 8, 2013

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11 SENIOR DISTRICT JUDGE