

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATHAN SMITH,

CASE NO. 1:10-CV-01554-AWI-MJS (PC)

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DISMISSING
ACTION WITH PREJUDICE FOR FAILURE
TO STATE A CLAIM AND DIRECTING
CLERK OF COURT TO ENTER
JUDGMENT ORDER COUNTING
DISMISSAL AS A STRIKE UNDER 28
U.S.C. § 1915(g)

v.

H.A. RIOS, JR., et al.,

Defendants.

(ECF NO. 41, 43)

Plaintiff Nathan Smith, a federal prisoner proceeding pro se and in forma pauperis
filed this civil rights action on August 9, 2010 pursuant to Bivens vs. Six Unknown Agents,
403 U.S. 388 (1971) which provides a remedy for the violation of civil rights by federal
actors. The matter was referred to a United States Magistrate Judge Pursuant to 28 U.S.C.
636(b)(1)(B) and Local Rules of the United States District Court - Eastern District of
California, Rule 302.

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1 On February 13, 2012, Findings and Recommendations were filed in which the
2 Magistrate Judge screened Plaintiff's First Amended Complaint and recommended
3 dismissal of the action for failure to state a claim. 28 U.S.C. §§ 1915-1915A. Plaintiff was
4 notified that his Objection, if any, was due within thirty (30) days. Plaintiff filed his Objections
5 to the Findings and Recommendations on March 19, 2012. (ECF No. 43.)
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7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has
8 conducted a de novo review of this case. Having carefully reviewed the entire file
9 including Plaintiff's Objections, the Court finds the Findings and Recommendations to be
10 supported by the record and by proper analysis. The arguments raised in the
11 Objections are correctly addressed in the Findings and Recommendations.
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13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Court adopts the Findings and Recommendations filed February 13,
15 2012, in full;
- 16 2. This action is dismissed, with prejudice, for failure to state a claim;
- 17 3. The Clerk of the Court shall enter judgment against Plaintiff; and
- 18 4. This dismissal counts as a strike under 28 U.S.C. § 1915(g).

19 IT IS SO ORDERED.
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21 Dated: April 27, 2012


22 CHIEF UNITED STATES DISTRICT JUDGE
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