1		
2		
3		
4		
5		
6		
7	UNITED STATES DISTRICT COURT	
8	EASTERN DISTRICT OF CALIFORNIA	
9		
10	VINCENT VASQUEZ,	1:10-cv-02013-LJO-GSA-PC
11	Plaintiff,	FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT THIS ACTION BE
12	V.	DISMISSED, WITH PREJUDICE, FOR FAILURE TO STATE A CLAIM UPON
13	DR. YU, et al.,	WHICH RELIEF MAY BE GRANTED
14	Defendants.	OBJECTIONS, IF ANY, DUE IN THIRTY DAYS
15	/	
16		
17	Vincent Vasquez ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed	
18	this civil rights action pursuant to 42 U.S.C. § 1983 on October 26, 2010. (Doc. 1.)	
19	On August 29, 2011, the Court dismissed Plaintiff's First Amended Complaint for failure to	
20	state a claim, with leave to file a Second Amended Complaint within thirty days. 28 U.S.C. §	
21	1915A; 28 U.S.C. § 1915(e). To date, Plaintiff has not complied with or otherwise responded to	
22	the Court's order. As a result, there is no pleading on file which sets forth any claims upon which	
23	relief may be granted.	
24	Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. § 1915A and	
25	28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff's failure to state	
26	a claim upon which relief may be granted under section 1983, and that this dismissal be subject to	
27	the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098	
28	(9th Cir. 2011).	

1	These findings and recommendations are submitted to the United States District Judge	
2	assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(l). Within thirty days	
3	after being served with these findings and recommendations, Plaintiff may file written objections	
4	with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings	
5	and Recommendations." Plaintiff is advised that failure to file objections within the specified time	
6	may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.	
7	1991).	
8		
9	IT IS SO ORDERED.	
10	Dated: <u>March 21, 2012</u> /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE	
11	UNITED STATES MAGISTRATE JUDGE	
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		