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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VINCENT VASQUEZ,	)	1:10-cv-02013-LJO-GSA-PC
	)	
Plaintiff,	)	FINDINGS AND RECOMMENDATIONS,
	)	RECOMMENDING THAT THIS ACTION BE
vs.	)	DISMISSED, WITH PREJUDICE, FOR
	)	FAILURE TO STATE A CLAIM UPON WHICH
DR. YU, et al.,	)	RELIEF MAY BE GRANTED UNDER
	)	SECTION 1983
	)	(Doc. 19.)
Defendants.	)	OBJECTIONS, IF ANY, DUE IN THIRTY
	)	DAYS
	)	
	)	

Plaintiff Vincent Vasquez, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 26, 2010. (Doc. 1.) On December 13, 2011, the Court dismissed Plaintiff’s First Amended Complaint for failure to state a claim, and ordered Plaintiff to file a Second Amended Complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc. 20.) Plaintiff requested and was granted a thirty day extension of time. (Docs. 21, 23.) The thirty day time period expired, and Plaintiff did not comply with or otherwise respond to the Court’s order. On May 22, 2012, the Court issued findings and recommendations, recommending that this action be dismissed, with prejudice, for failure to state a claim. (Doc. 24.) On April 19, 2012, Plaintiff filed objections to the findings and recommendations, and on April 23, 2012, the Court vacated the findings

1 and recommendations and granted Plaintiff sixty more days to comply with the Court's December 13,  
2 2011 order. (Docs. 25, 26.) The sixty day time period has now expired, and Plaintiff has not complied  
3 with or otherwise responded to the Court's orders. As a result, there is no pleading on file which sets  
4 forth any claims upon which relief may be granted.

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

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

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17 IT IS SO ORDERED.

18 **Dated: August 1, 2012**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE

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