1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 STEVE WILHELM, Case No. 1:12-cv-00386-AWI-SAB 12 Plaintiff. FINDINGS AND RECOMMENDATION RECOMMENDING DISMISSAL OF 13 v. ACTION FOR FAILURE TO STATE A COGNIZABLE CLAIM FOR RELIEF 14 JEANNIE WOODFORD, [ECF No. 16] 15 Defendant. 16 17 Plaintiff Steve Wilhelm is appearing pro se and in forma pauperis in this civil rights 18 action pursuant to 42 U.S.C. § 1983. 19 On September 10, 2013, the undersigned dismissed Plaintiff's first amended complaint 20 for failure to state a claim upon which relief may be granted and ordered Plaintiff to file an 21 amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). To date, 22 Plaintiff has not complied with or otherwise responded to the Court's order. As a result, there is 23 no pleading on file which sets forth any claims upon which relief may be granted under section 1983. 24 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), the undersigned 25 HEREBY RECOMMENDS that this action be dismissed, with prejudice, based on Plaintiff's 26 failure to state any claims upon which relief may be granted under section 1983. 27

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These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(l). Within fifteen (15) days after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). IT IS SO ORDERED.

Dated: November 4, 2013

UNITED STATES MAGISTRATE JUDGE