

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BILLY RAE SHA'NEE MALDONADO, | 1:12-cv-01088-AWI-GSA (PC)

Plaintiff,

VS.

R. H. TRIMBLE, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
BE DISMISSED, WITH PREJUDICE,
FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF MAY BE
GRANTED

**OBJECTIONS, IF ANY, DUE IN THIRTY
DAYS**

Billy Rae Sha'nee Maldonado ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed the Complaint commencing this civil rights action pursuant to 42 U.S.C. § 1983 on July 5, 2012. (Doc. 1.) On August 13, 2014, the Court dismissed Plaintiff's Complaint for failure to state a claim, with leave to amend within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc. 11.) Plaintiff requested and was granted two extensions of time to file an amended complaint. (Docs. 12, 13, 14, 15.) Plaintiff's latest deadline to amend the Complaint has expired, and Plaintiff has not filed an amended complaint. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

Accordingly, **IT IS HEREBY RECOMMENDED** that pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff's failure

1 to state a claim upon which relief may be granted under section 1983, and that this dismissal be
2 subject to the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, 658
3 F.3d 1090, 1098 (9th Cir. 2011).

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty
6 days after being served with these findings and recommendations, Plaintiff may file written
7 objections with the court. Such a document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
9 within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler,
10 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir.
11 1991)).

12 IT IS SO ORDERED.
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14 Dated: February 5, 2015

15 /s/ Gary S. Austin
16 UNITED STATES MAGISTRATE JUDGE
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