



1 undersigned ordered Plaintiff to show cause why the action should not be dismissed.  
2 (ECF No. 34.) Plaintiff responded to the order to show cause by continuing to contest  
3 aspects of the initial screening order. (ECF No. 35.)

4 The Court has awaited Plaintiff's amended pleading for two and a half years.  
5 Plaintiff does not presently seek further reconsideration nor indicate his intent to amend  
6 the complaint. Accordingly, the Court construes Plaintiff's response to the order to show  
7 cause as notice of his intent not to amend as required by the screening order. Plaintiff  
8 has exercised his right to stand on his pleading by notifying the Court that he believes he  
9 is not required to file an amended complaint. See Edwards v. Marin Park, Inc., 356 F.3d  
10 1058, 1064-65 (9th Cir. 2004). In such a situation, the Court is constrained to accept  
11 Plaintiff's election and dismiss the action. Id. at 1064.

12 Accordingly, it is HEREBY RECOMMENDED that the action be DISMISSED,  
13 without prejudice, for failure to comply with Rule 8(a).

14 These findings and recommendation are submitted to the United States District  
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
16 fourteen (14) days after being served with the findings and recommendation, any party  
17 may file written objections with the Court and serve a copy on all parties. Such a  
18 document should be captioned "Objections to Magistrate Judge's Findings and  
19 Recommendation." Any reply to the objections shall be served and filed within fourteen  
20 (14) days after service of the objections. Plaintiff is advised that failure to file objections  
21 within the specified time may result in the waiver of rights on appeal. Wilkerson v.  
22 Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391,  
23 1394 (9th Cir. 1991)).

24  
25 IT IS SO ORDERED.

26 Dated: June 29, 2015

27 /s/ Michael J. Seng  
28 UNITED STATES MAGISTRATE JUDGE