1 2 3 4 5 **UNITED STATES DISTRICT COURT** 6 EASTERN DISTRICT OF CALIFORNIA 7 8 9 1:13-cv-00278-LJO-BAM (PC) MATTHEW JAMES DURY, 10 Plaintiff, FINDINGS AND RECOMMENDATIONS REGARDING DISMISSAL OF ACTION 11 v. FOR FAILURE TO STATE A CLAIM 12 LT. BOLT, et al., FOURTEEN-DAY DEADLINE 13 Defendants. 14 15 Plaintiff Matthew James Dury ("Plaintiff") is a federal prisoner proceeding pro se and in 16 forma pauperis in this civil action pursuant to Bivens v. Six Unknown Named Agents of Federal 17 Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971). Plaintiff initiated this action on 18 February 25, 2013. 19 On April 18, 2014, the Court dismissed Plaintiff's complaint for failure to state a claim, 20 with leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 21 1915(e). Plaintiff was warned that if he failed to file an amended complaint in compliance with 22 23 the order, this action would be dismissed for failure to state a claim. 24 The deadline for Plaintiff to file his amended complaint has passed and Plaintiff has not 25 complied with or otherwise responded to the Court's order. As a result, there is no pleading on 26 file which sets forth any claims upon which relief may be granted. 27 28

Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), IT IS HEREBY RECOMMENDED that this action be dismissed based on Plaintiff's failure to state any claims upon which relief may be granted.

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 fourteen (14) 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. <u>Ylst</u>, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: May 29, 2014

/s/Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE