## 1 2 3 4 5 **UNITED STATES DISTRICT COURT** 6 EASTERN DISTRICT OF CALIFORNIA 7 8 9 1:13-cv-00595-AWI-BAM (PC) MATTHEW JAMES DURY, 10 Plaintiff, FINDINGS AND RECOMMENDATIONS REGARDING DISMISSAL OF ACTION 11 v. FOR FAILURE TO STATE A CLAIM 12 J. CIUFO, FOURTEEN-DAY DEADLINE 13 Defendant. 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 April 18 19 24, 2013. Plaintiff filed a first amended complaint on May 6, 2013. On June 13, 2014, the Court dismissed Plaintiff's first amended complaint for failure to 20 21 state a claim, with leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff was warned that if he failed to file an amended complaint in 22 compliance with the order, this action would be dismissed for failure to state a claim. 23 24 The deadline for Plaintiff to file his second amended complaint has passed and Plaintiff 25 has not complied with or otherwise responded to the Court's order. As a result, there is no 26 pleading on 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. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: July 29, 2014 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE