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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO HERNANDEZ,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

Case No. 1:13-cv-01468-LJO-DLB PC

**FINDINGS AND RECOMMENDATIONS
RECOMMENDING TO DISMISS THIS
ACTION, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM**

(ECF No. 9)

Plaintiff Francisco Hernandez (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 23, 2014, the Court issued an order dismissing the complaint, with leave to amend, for failure to state a claim. (ECF No. 9.) Plaintiff was given thirty days to file an amended complaint and was cautioned that the failure to do so would result in the dismissal of this action for failure to state a claim. *Id.* More than thirty days has passed, and Plaintiff has not complied with or otherwise responded to the Court’s order. 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 this action be dismissed, with prejudice, based on Plaintiff’s failure to state a claim.

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1 These Findings and Recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty (30) days after
3 being served with these Findings and Recommendations, the parties may file written objections with
4 the court. Such a document should be captioned “Objections to Magistrate Judge's Findings and
5 Recommendations.” The parties are advised that failure to file objections within the specified time
6 may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th
7 Cir. 1991).

8
9 IT IS SO ORDERED.

10 Dated: June 23, 2014

/s/ Dennis L. Beck
11 UNITED STATES MAGISTRATE JUDGE