

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MONTE WEATHERINGTON,

 Plaintiff,

 v.

S. RIOS, et al.,

 Defendants.

Case No. 1:14-cv-0906 AWI DLB PC

FINDINGS AND RECOMMENDATION
REGARDING DISMISSAL OF ACTION FOR
FAILURE TO STATE A CLAIM FOR RELIEF

FOURTEEN-DAY DEADLINE

Plaintiff Monte Weatherington, (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on June 12, 2014. On March 16, 2015, the Court screened the complaint and determined Plaintiff stated a cognizable claim under the Fourth Amendment against Defendant Arranquin. The Court found no other cognizable claims. Plaintiff was given the option to proceed on his cognizable claim or file a First Amended Complaint (“FAC”). Plaintiff elected to file a FAC and did so on June 1, 2015.

On April 27, 2016, the Court screened the complaint and found it failed to state a cognizable claim for relief. Plaintiff was directed to file a Second Amended Complaint within thirty days. Over thirty days have passed and Plaintiff has failed to comply. Plaintiff was advised that failure to comply would result in dismissal of the action with prejudice for failure to state a claim.

///

///

1 **RECOMMENDATION**

2 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed with
3 prejudice for failure to state a claim for relief.

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 fourteen (14)
6 days after date of service of these Findings and Recommendations, Plaintiff may file written
7 objections with the Court. Such a document should be captioned "Objections to Magistrate Judge's
8 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
9 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d
10 1153 (9th Cir. 1991).

11
12
13 IT IS SO ORDERED.

14 Dated: June 1, 2016

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE