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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 ROGER WILKERSON,

11 Plaintiff,

12 vs.

13 JEFFREY BEARD, et al.,

14 Defendants.  
15  
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1:14-cv-01417-LJO-EPG-PC

FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS ACTION  
BE DISMISSED, WITH PREJUDICE, FOR  
FAILURE TO STATE A CLAIM UPON  
WHICH RELIEF MAY BE GRANTED  
(ECF No. 22.)

OBJECTIONS, IF ANY, DUE IN THIRTY  
DAYS

17 Roger Wilkerson (“Plaintiff”) is a former state prisoner proceeding *pro se* in this civil  
18 rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this  
19 action on July 26, 2013. (ECF No. 1.) On January 30, 2014, Plaintiff filed the First Amended  
20 Complaint. (ECF No. 22.)

21 On October 1, 2015, the Court dismissed Plaintiff’s First Amended Complaint for  
22 failure to state a claim, with leave to file a Second Amended Complaint within thirty days.  
23 (ECF No. 51.) 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). To date, Plaintiff has not complied  
24 with or otherwise responded to the Court’s order.<sup>1</sup> As a result, there is no pleading on file  
25 which sets forth any claims upon which relief may be granted.  
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28 <sup>1</sup> On October 29, 2015, the U.S. Postmaster returned the court’s order to the court as undeliverable, with  
the notation “Attempted – Not Known.” (Court Record.) Plaintiff has not notified the court of any change in his  
address. Absent such notice, service at a party’s prior address is fully effective. Local Rule 182(f).

1 Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. § 1915A  
2 and 28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff's failure  
3 to state a claim upon which relief may be granted under section 1983, and that this dismissal be  
4 subject to the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Coleman v. Tollefson,  
5 135 S.Ct. 1759, 1761-62, 191 L.Ed.2d 803 (2011).

6 These findings and recommendations are submitted to the United States District Judge  
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty  
8 days after being served with these findings and recommendations, Plaintiff may file written  
9 objections with the court. Such a document should be captioned "Objections to Magistrate  
10 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections  
11 within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler,  
12 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir.  
13 1991)).

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15 IT IS SO ORDERED.

16 Dated: November 16, 2015

17 /s/ Eric P. Grogan  
18 UNITED STATES MAGISTRATE JUDGE  
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