

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HERBERT WILLMES,

Plaintiff,

V.

CLIFF ALLENBY, et al.,

Defendants.

CASE NO. 1:15-cv-00134-LJO-MJS (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
COMPLAINT FOR FAILURE TO STATE A
CLAIM AND REQUIRE PLAINTIFF TO
FILE A HABEAS PETITION OR NOTICE
OF VOLUNTARY DISMISSAL**

(ECF No. 12)

CLERK TO SEND PLAINTIFF HABEAS PETITION FORM

CASE TO REMAIN OPEN

THIRTY (30) DAY DEADLINE

Plaintiff is a civil detainee proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

On February 11, 2015, the Magistrate Judge issued findings and recommendations to dismiss Plaintiff's complaint for failure to state a claim, and to require Plaintiff to file, within thirty days, either a petition for a writ of habeas corpus or a

1 notice of voluntary dismissal. (ECF No. 12.) Plaintiff filed no objections.

2 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has
3 conducted a de novo review of this case. Having carefully reviewed the entire file, the
4 Court finds the Findings and Recommendation to be supported by the record and by
5 proper analysis.

6 Accordingly, it is HEREBY ORDERED that:

- 7 1. The Court adopts the findings and recommendations, filed on February 11,
8 2015 (ECF No. 12), in full;
- 9 2. Plaintiff's complaint (ECF No. 1) is DISMISSED for failure to state a claim;
- 10 3. The Clerk's Office is directed to send Plaintiff a habeas petition form; and
- 11 4. Plaintiff is required to file a habeas petition or a notice of voluntary
12 dismissal within thirty (30) days of the date of this order.

13
14 **SO ORDERED**
15 **Dated: March 3, 2015**

16
17
18
19
20
21
22
23
24
25
26
27
28
/s/ **Lawrence J. O'Neill**
United States District Judge