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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 KEVIN FIELDS,

12 Plaintiff,

13 v.

14 JEFFREY BEARD, et al.,

15 Defendants.
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1:15-cv-00666-DAD-GSA-PC

FINDINGS AND RECOMMENDATIONS
TO DISMISS CASE FOR FAILURE TO
STATE A CLAIM
(ECF No. 38.)

OBJECTIONS, IF ANY, DUE IN
FOURTEEN (14) DAYS

17 On April 6, 2017, the court issued an order dismissing Plaintiff's First Amended
18 Complaint for failure to state a claim, with leave to file a Second Amended Complaint within
19 thirty days. (ECF No. 38.) Plaintiff subsequently requested and was granted three thirty-day
20 extensions of time to file the Second Amended Complaint. (ECF Nos. 39, 40, 42, 43, 44, 45.)
21 The latest thirty-day deadline has now expired and Plaintiff has not filed a Second Amended
22 Complaint or otherwise responded to the court's order. As a result, there is no pleading on file
23 which sets forth any claims upon which relief may be granted.

24 Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. § 1915A
25 and 28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff's
26 failure to state a claim upon which relief may be granted under § 1983.

27 These findings and recommendations are submitted to the United States District Judge
28 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen

1 (14) days after the date of service of these findings and recommendations, Plaintiff may file
2 written objections with the court. Such a document should be captioned “Objections to
3 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
4 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
5 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
6 (9th Cir. 1991)).

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8 IT IS SO ORDERED.

9 Dated: August 26, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE