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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 BENITO AGUILAR,

12 Plaintiff,

13 vs.

14 KIM HOLLAND, et al.,

15 Defendants.
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1:16-cv-00114-LJO-GSA-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 13.)

ORDER DISMISSING ACTION, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF MAY
BE GRANTED UNDER SECTION 1983

ORDER THAT DISMISSAL IS SUBJECT
TO 28 U.S.C. § 1915(g)

ORDER FOR CLERK TO CLOSE CASE

20 **I. BACKGROUND**

21 Benito Aguilar (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis
22 in this civil rights action filed pursuant to 42 U.S.C. § 1983. On January 25, 2016, Plaintiff
23 filed the Complaint commencing this action. (ECF No. 1.) The matter was referred to a United
24 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

25 On December 29, 2016, [findings and recommendations](#) were entered, recommending
26 that this action be dismissed based on plaintiff’s failure to state a claim upon which relief may
27 be granted under §1983. (ECF No. 13.) Plaintiff was granted thirty days in which to file
28 objections to the findings and recommendations. (Id.) The thirty day time period has passed,

1 and Plaintiff has not filed objections or any other response to the findings and
2 recommendations. (Court Record.)

3 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
4 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
5 the court finds the findings and recommendations to be supported by the record and proper
6 analysis.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The Findings and Recommendations issued by the Magistrate Judge on
9 December 29, 2016, are adopted in full;
- 10 2. This action is dismissed, with prejudice, based on plaintiff's failure to state a
11 claim upon which relief may be granted under § 1983;
- 12 3. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. §
13 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098 (9th Cir. 2011); and
- 14 4. The Clerk of Court is directed to close this case.

15 IT IS SO ORDERED.
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17 Dated: February 16, 2017

/s/ Lawrence J. O'Neill
18 UNITED STATES CHIEF DISTRICT JUDGE
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