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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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7 THOMAS BUTLER,
8 Plaintiff,

9 v.

10 PEREZ, et al.,
11 Defendants.
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1:16-cv-00820-AWI-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF NOS. 1, 8, & 9)

ORDER DISMISSING ACTION, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM AND FAILURE TO COMPLY
WITH A COURT ORDER

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

ORDER FOR CLERK TO CLOSE CASE
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16 Thomas Butler (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*
17 with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint
18 commencing this action on June 13, 2016. (ECF No. 1). The matter was referred to a United
19 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On February 15, 2017, Magistrate Judge Erica P. Grosjean entered findings and
21 recommendations, recommending that this action be dismissed, with prejudice, for failure to
22 state a claim upon which relief may be granted under § 1983 and failure to comply with a court
23 order. (ECF No. 9). Plaintiff was provided an opportunity to file objections to the findings and
24 recommendations within thirty days. The thirty-day period has expired and Plaintiff has not
25 filed objections to the findings and recommendations.¹
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28 ¹ While Plaintiff did not object, on March 30, 2017, he filed a “stay of complaint.” ECF No. 10. The stay of
complaint states that Plaintiff wishes to stand on his initial complaint. It also seems to ask for a stay of this case
because Plaintiff is housed in Administrative Segregation with little to no access to supplies or the law library.

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

5 Accordingly, THE COURT HEREBY ORDERS that:

- 6 1. The findings and recommendations issued by Magistrate Judge Erica P. Grosjean on
7 February 15, 2017, are ADOPTED IN FULL;
- 8 2. Pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e)(2)(B)(ii) this action is
9 DISMISSED based on Plaintiff's failure to state a claim upon which relief may be
10 granted under § 1983, as well as Plaintiff's failure to comply with a Court order;
- 11 3. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. §
12 1915(g). Coleman v. Tollefson, 135 S. Ct. 1759, 1763 (2015); and
- 13 4. The Clerk of Court is directed to CLOSE this case.

14 IT IS SO ORDERED.

15 Dated: April 24, 2017

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17 SENIOR DISTRICT JUDGE

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28 Given that Plaintiff wishes to stand on his initial complaint, and the fact that the Court has found that the initial
complaint fails to state a claim upon which relief may be granted, the Court will not stay this case.