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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMISI JAMES CALLOWAY,  
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,  
Defendants.

**CASE No. 1:16-cv-01305-DAD-MJS (PC)**

**FINDINGS AND RECOMMENDATION TO  
DISMISS CASE FOR FAILURE TO STATE  
A CLAIM**

**FOURTEEN DAY OBJECTION DEADLINE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On January 18, 2017, the Court dismissed Plaintiff's complaint with thirty days leave to amend. (ECF No. 12.) On February 6, 2017, Plaintiff filed a motion for reconsideration of the Court's screening order. (ECF No. 13.) On April 26, 2017, the District Judge assigned to the case denied the motion for reconsideration and directed Plaintiff to file his amended complaint within thirty days. (ECF No. 14.) On July 24, 2017, no amended complaint having been filed, the undersigned Ordered Plaintiff to show cause why his case should not be dismissed for failure to obey a Court order and failure to state a claim. (ECF No. 15.)

1 On August 4, 2017, Plaintiff responded with “objections” to the Order to show  
2 cause. (ECF No. 16.) It appears Plaintiff wishes to stand on his complaint. See Edwards  
3 v. Marin Park, Inc., 356 F.3d 1058, 1064-65 (9th Cir. 2004) (plaintiff may elect to forego  
4 amendment). In light of Plaintiff’s election, the screening order, and the District Judge’s  
5 review of the complaint on the motion for reconsideration, it is HEREBY  
6 RECOMMENDED that:

7 Plaintiff’s complaint (ECF No. 1) be dismissed with prejudice and without leave to  
8 amend for failure to state a claim.

9 The findings and recommendation are submitted to the United States District  
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
11 **thirty** (30) days after being served with the findings and recommendation, Plaintiff may  
12 file written objections with the Court. Such a document should be captioned “Objections  
13 to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that failure to  
14 file objections within the specified time may result in the waiver of rights on appeal.  
15 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923  
16 F.2d 1391, 1394 (9th Cir. 1991)).

17  
18 IT IS SO ORDERED.

19 Dated: August 7, 2017

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE