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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ALBERT VALDEZ,

12 Plaintiff,

13 vs.

14 WARDEN OF PVSP, et al.,

15 Defendants.
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1:16-cv-01599-DAD-GSA-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS CASE BE
DISMISSED. WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM
(ECF No. 15.)

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

18 Albert Valdez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
19 with this civil rights action pursuant to 42 U.S.C. § 1983. On October 13, 2016, Plaintiff filed
20 the Complaint commencing this action at the United States District Court for the Central
21 District of California. (ECF No. 1.) On October 21, 2016, Plaintiff's case was transferred to
22 this court. (ECF No. 5.)

23 The court screened the Complaint pursuant to 28 U.S.C. § 1915A and issued an order
24 on August 28, 2017, dismissing the Complaint for failure to state a claim, with leave to amend.
25 (ECF No. 12.) On October 25, 2017, Plaintiff filed the First Amended Complaint. (ECF No.
26 15.)

27 On February 12, 2018, the court issued an order dismissing Plaintiff's First Amended
28 for failure to state a claim, with leave to file an amended complaint within thirty days. (ECF

1 No. 17.) The thirty-day deadline has now expired, and Plaintiff has not filed an amended
2 complaint or otherwise responded to the court's order. As a result, there is no pleading on file
3 which sets forth any claims upon which relief may be granted.

4 Accordingly, **IT IS HEREBY RECOMMENDED** that:

5 1. Pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this case be
6 DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon
7 which relief may be granted under § 1983; and

8 2. This dismissal be subject to the "three strikes" provision of 28 U.S.C. § 1915(g).

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within**
11 **fourteen (14) days** from the date of service of these findings and recommendations, Plaintiff
12 may file written objections with the court. Such a document should be captioned "Objections
13 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
14 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
15 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
16 (9th Cir. 1991)).

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18 IT IS SO ORDERED.

19 Dated: March 30, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE