

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TED BLACKMON,

Plaintiff,

vs.

M. JUNIOUS, et al.,

Defendants.

1:16-cv-01773-DAD-GSA-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
BE DISMISSED, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED
(ECF No. 15.)

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

Ted Blackmon (“Plaintiff”) is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983.) Plaintiff filed the Complaint commencing this action on November 22, 2016. (ECF No. 1.)

On August 28, 2017, the court screened the Complaint and issued an order dismissing the Complaint for failure to state a claim, with leave to file an amended complaint within thirty days. (ECF No. 15.) 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). The thirty-day deadline has passed and Plaintiff has not filed an amended complaint or otherwise responded to the court's order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

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

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

IT IS SO ORDERED.

Dated: October 27, 2017

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE