UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

10
11
KENNY CALIHAN,
12
Plaintiff,
13
vs.
14
D. CROUNSE, et al.,
15
Defendants.
16

1:17-cv-00139-DAD-GSA-PC

FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT THIS CASE BE DISMISSED. WITH PREJUDICE, FOR FAILURE TO STATE A CLAIM (ECF No. 11.)

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

Kenny Calihan ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On February 1, 2017, Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

On September 25, 2017, the court issued an order dismissing Plaintiff's Complaint for violation of Rule 8 and failure to state a claim, with leave to file an amended complaint within thirty days. (ECF No. 8.) The thirty-day deadline has now expired 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.

¹ The United States Postal Service returned the order on October 2, 2017, as undeliverable. A notation on the envelope indicates that Plaintiff was paroled on August 18, 2017. However, Plaintiff has not notified the court of any change in his address. Absent such notice, service at a party's prior address is fully effective. Local Rule 182(f).

Accordingly, **IT IS HEREBY RECOMMENDED** that pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this case be DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon which relief may be granted under § 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)(l). 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: November 8, 2017 /s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE