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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

9 WILLIE GRIFFIN,

10 Plaintiff,

11 v.

12 D LOPEZ,

13 Defendant.

Case No. 1:17-cv-00487-AWI-SAB (PC)

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
ACTION, WITHOUT PREJUDICE, FOR
FAILURE TO COMPLY WITH A COURT
ORDER AND FAILURE TO PROSECUTE

[ECF Nos. 1, 22]

FOURTEEN-DAY DEADLINE

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16 Plaintiff Willie Griffin is appearing pro se and in forma pauperis in this civil rights action
17 pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge
18 pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

19 On August 24, 2017, the Court screened Plaintiff's amended complaint and found that it
20 stated a claim against Defendant Lopez for deliberate indifference in violation of the Eighth
21 Amendment and retaliation in violation of the First Amendment. (ECF No. 10.) Plaintiff was
22 directed to either file a second amended complaint curing the deficiencies identified by the Court
23 or notify the Court in writing that he wished to proceed only on the claims found cognizable,
24 within thirty days from the date of service of that order. (Id. at 9-10.) More than thirty days
25 passed, and Plaintiff did not comply with or otherwise responded to the order.

26 On October 3, 2017, the Court issued an order to show cause in writing why this action
27 should not be dismissed for Plaintiff's failure to comply with the August 24, 2017 order. (ECF
28 No. 12.) Plaintiff was also informed that he could comply with the order to show cause by filing

1 a second amended complaint or written notice to proceed on the claims found cognizable in the
2 prior screening order. (Id. at 1-2.) Plaintiff was permitted another twenty-one days to respond to
3 the order to show cause. More than twenty-one days have passed, and Plaintiff has not responded
4 to or otherwise complied with the order.

5 Based on Plaintiff's repeated failure to comply with or otherwise respond to the Court's
6 orders, the Court is left with no alternative but to dismiss the action for failure to prosecute and
7 failure to obey a court order. Id. This action can proceed no further without Plaintiff's
8 cooperation and compliance with the orders at issue, and the action cannot simply remain idle on
9 the Court's docket, unprosecuted. Id.

10 Accordingly, it is HEREBY RECOMMENDED that the instant action be dismissed,
11 without prejudice, for failure to obey a court order and failure to prosecute.

12 This Findings and Recommendation will be submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
14 **(14) days** after being served with this Findings and Recommendation, Plaintiff may file written
15 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
16 Findings and Recommendation." Plaintiff is advised that failure to file objections within the
17 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834,
18 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19 IT IS SO ORDERED.

20 Dated: November 6, 2017

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23 UNITED STATES MAGISTRATE JUDGE
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