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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARCAILL WORMLEY,  
Plaintiff,  
vs.  
H. GAMBOA, et al.,  
Defendants.

1:17-cv-00506-DAD-GSA-PC  
**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS CASE BE  
DISMISSED, WITH PREJUDICE, FOR  
FAILURE TO STATE A CLAIM**  
**OBJECTIONS, IF ANY, DUE IN 14 DAYS**

**I. BACKGROUND**

Marcaill Wormley (“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 April 11, 2017, Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

On April 6, 2018, the court issued an order dismissing Plaintiff’s Complaint for failure to state a claim, with leave to file an amended complaint within thirty days. (ECF No. 11.) 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 Accordingly, **IT IS HEREBY RECOMMENDED** that:

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

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

14  
15 IT IS SO ORDERED.

16 Dated: May 22, 2018

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE