

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
9

10 TOMMIE LEE POWELL,
11 Plaintiff,
12 vs.
13 S. RAMAIN, et al.,
14 Defendants.
15

1:17-cv-00514-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

16 Tommie Lee Powell ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
17 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On April 12, 2017, Plaintiff
18 filed the Complaint commencing this action. (ECF No. 1.)

19 On April 5, 2018, the court issued an order dismissing the Complaint for failure to state
20 a claim, with leave to file an amended complaint within thirty days. (ECF No. 8.) The thirty-
21 day deadline has now expired, and Plaintiff has not filed an amended complaint or otherwise
22 responded to the court's order. As a result, there is no pleading on file which sets forth any
23 claims upon which relief may be granted.

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

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

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: May 22, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE