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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CARLOS ROMERO BURNETT, Plaintiff, v. C.D.C.R TRUST OFFICE, Defendant.)))))))))))))))	Case No.: 1:17-cv-00899-LJO-SAB (PC) FINDINGS AND RECOMMENDATIONS RECOMMENDING DISMISSAL OF ACTION FOR FAILURE TO COMPLY WITH A COURT ORDER AND FAILURE TO STATE A COGNIZABLE CLAIM FOR RELIEF [ECF Nos. 1, 22] FOURTEEN-DAY DEADLINE
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18 Plaintiff Carlos Romero Burnett is a state prisoner proceeding pro se and in forma pauperis in
 19 this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States
 20 Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

21 On August 10, 2017, the Court dismissed Plaintiff’s complaint and granted Plaintiff thirty days
 22 to file an amended complaint or a notice of voluntary dismissal. Plaintiff was warned that if he failed
 23 to comply, this action would be dismissed for failure to state a claim, the failure to obey a court order,
 24 and the failure to prosecute. More than thirty days have passed, and Plaintiff has not complied with or
 25 otherwise responded to the order.

26 The Court has the inherent power to control its docket and may, in the exercise of that power,
 27 impose sanctions where appropriate, including dismissal of the action. Bautista v. Los Angeles Cnty.,
 28 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court must weigh

1 “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
2 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases
3 on their merits; and (5) the availability of less drastic sanctions.” In re Phenylpropanolamine (PPA)
4 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (internal quotations and citations omitted).
5 These factors guide a court in deciding what to do, and are not conditions that must be met in order for
6 a court to take action. Id. (citation omitted).

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

11 Accordingly, it is HEREBY RECOMMENDED that the instant action be dismissed for failure
12 to state a cognizable claim for relief, failure to obey a court order, and failure to prosecute.

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

20
21 IT IS SO ORDERED.

22 Dated: September 19, 2017



UNITED STATES MAGISTRATE JUDGE