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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT MITCHELL,

 Plaintiff,

 v.

CDCR SECRETARY JEFFERY BEARD, et
al.,

 Defendants.

Case No. 1:17 -cv-01032-DAD-SAB

FINDINGS AND RECOMMENDATION
RECOMMENDING DISMISSAL OF
ACTION FOR FAILURE TO COMPLY
WITH COURT ORDER AND FAILURE TO
STATE A COGNIZABLE CLAIM FOR
RELIEF

(ECF No. 11)

Plaintiff Robert Mitchell (“Plaintiff”), a former state prisoner, proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 12, 2017 in the Central District of California. On August 3, 2017, the matter was transferred to the Eastern District of California.

On August 23, 2017, the Court dismissed Plaintiff’s complaint for failure to state a claim under section 1983 and ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). On September 25, 2017, Plaintiff filed objections to the order, and on October 2, 2017, the Court overruled Plaintiff’s objections and granted Plaintiff an additional thirty days to file an amended complaint. (ECF Nos. 13, 14.) More than thirty days have since passed, and Plaintiff has not complied with 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. Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), it is

1 HEREBY RECOMMENDED THAT the instant action be dismissed, with prejudice, based on
2 Plaintiff's failure to comply with a court order and failure to state a claim upon which relief may
3 be granted.

4 This Findings and Recommendation will be submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-one**
6 **(21) days** after being served with this Findings and Recommendation, the parties may file
7 written objections with the Court. The document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendation." The parties are advised that failure to file objections
9 within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler,
10 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir.
11 1991)).

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13 IT IS SO ORDERED.

14 Dated: November 13, 2017


UNITED STATES MAGISTRATE JUDGE

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