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

DESHAWN MITCHELL,  
Plaintiff,  
v.  
TATE,  
Defendant.

Case No. 1:17-cv-01633-AWI-BAM (PC)  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
DISMISSAL OF ACTION FOR FAILURE TO  
STATE A CLAIM  
(ECF No. 10)

Plaintiff Deshawn Mitchell (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 6, 2018, the Magistrate Judge issued findings and a recommendation recommending dismissal of this action for failure to state a cognizable claim upon which relief may be granted. (ECF No. 10.) Those findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 5.) Plaintiff timely filed objections, together with a lodged second amended complaint, on June 20, 2018. (ECF Nos. 11, 12.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the case, including Plaintiff’s objections and proposed second amended complaint. None of Plaintiff’s objections provide a legal basis on which to question the

1 Magistrate Judge's findings and recommendations, and the proposed second amended complaint  
2 fails to cure the identified deficiencies in the first amended complaint. Having carefully reviewed  
3 the entire file, the Court concludes that the Magistrate Judge's findings and recommendations are  
4 supported by the record and by proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations issued on June 6, 2018 (ECF No. 10) are ADOPTED  
7 in full;
- 8 2. This action is DISMISSED, with prejudice, for failure to state a cognizable claim upon  
9 which relief may be granted; and
- 10 3. The Clerk of the Court is directed to CLOSE this case.

11 IT IS SO ORDERED.

12 Dated: December 15, 2020

  
13 SENIOR DISTRICT JUDGE

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