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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LONNELL B. DIGGS,

 Plaintiff,

 vs.

JOHN DOE, et al.,

 Defendants.

1:19-cv-00766-NONE-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS CASE BE
DISMISSED, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM
(ECF No. 1.)**

**OBJECTIONS, IF ANY, DUE IN
FOURTEEN (14) DAYS**

I. BACKGROUND

Lonnell B. Diggs (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on May 31, 2019. (ECF No. 1.) On June 21, 2019, Plaintiff filed the First Amended Complaint as a matter of course. (ECF No. 9.) On July 15, 2019, Plaintiff filed a motion to amend and lodged a Second Amended Complaint. (ECF Nos. 11, 12.) The court granted Plaintiff’s motion to amend and the Second Amended Complaint was filed on July 15, 2019. (ECF Nos. 13, 14.) On October 2, 2020, the court screened Plaintiff’s Second Amended Complaint under 28 U.S.C. § 1915A and dismissed it for failure to state a claim, with leave to

1 amend within thirty days. (ECF No. 15.) The thirty-day deadline has now expired and Plaintiff
2 has not filed a Third Amended Complaint or otherwise responded to the court's order.¹ As a
3 result, there is no pleading on file which sets forth any claims upon which relief may be granted.

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

- 5 1. Pursuant to 28 U.S.C. § 1915A, this case be DISMISSED, with prejudice, based
6 on Plaintiff's failure to state a claim upon which relief may be granted under §
7 1983; and
- 8 2. The Clerk be directed to close this case.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within fourteen**
11 **(14) days** from the date of service of these findings and recommendations, Plaintiff may file
12 written objections with the court. Such a document should be captioned "Objections to
13 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
14 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
15 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
16 (9th Cir. 1991)).

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18 IT IS SO ORDERED.

19 Dated: November 24, 2020

/s/ Gary S. Austin
20 UNITED STATES MAGISTRATE JUDGE

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¹ The United States Postal Service returned the order on October 16, 2020 as undeliverable. A notation on the envelope indicates that Plaintiff is paroled. Plaintiff has not notified the court of any change in his address. Absent such notice service at a party's prior address is fully effective. Local Rule 182(f).