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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 CARLTON SIMS, JR..

12 Plaintiff,

13 vs.

14 SCHELLENBERG, et al.,

15 Defendants.  
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1:19-cv-01427-AWI-GSA-PC

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS CASE BE  
DISMISSED, WITH PREJUDICE, FOR  
FAILURE TO STATE A CLAIM, FAILURE  
TO OBEY A COURT ORDER, AND  
FAILURE TO PROSECUTE  
(ECF No. 16.)**

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

21 Plaintiff, Carlton Sims, Jr., is a state prisoner proceeding *pro se* and *in forma pauperis*  
22 with this civil rights action pursuant to 42 U.S.C. § 1983. On October 4, 2019, plaintiff filed the  
23 complaint commencing this action. (ECF No. 1.)

24 On January 15, 2020, the court screened the complaint and dismissed it for failure to state  
25 a claim with leave to amend. (ECF No. 14.) On January 27, 2020, plaintiff filed the First  
26 Amended Complaint. (ECF No. 15.) On February 12, 2020, the court dismissed the First  
27 Amended Complaint for failure to stay a claim, with leave to file a Second Amended Complaint  
28 within thirty days. (ECF No. 16.) The thirty-day time period has passed, and plaintiff has not

1 filed a Second Amended Complaint or otherwise responded to the court's order.<sup>1</sup> As a result,  
2 there is no pleading on file which sets forth any claims upon which relief may be granted.

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

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

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

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17 IT IS SO ORDERED.

18 Dated: April 6, 2020

18 /s/ Gary S. Austin  
19 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> On March 2, 2020, the court's order was returned to the court by the U.S. Postal Service as undeliverable. A notation on the envelope indicates "No Mail Receptacle." However, 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).