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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EUGENE WINTERS,

 Plaintiff,

 v.

STUART SHERMAN, et al.,

 Defendants.

No. 1:20-cv-00647-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 11)

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

On August 13, 2020, the assigned magistrate judge screened the complaint and found that plaintiff had stated a cognizable claim for unconstitutional conditions of confinement in violation of the Eighth Amendment against defendants Sherman and Milan but failed to state any other cognizable claims for relief. (Doc. No. 9.) The court ordered plaintiff to file a first amended complaint to attempt to cure the noted deficiencies or, alternatively, to notify the court in writing of his willingness to proceed only on the claim identified as cognizable in the screening order. (Id. at 9–10.) The court expressly warned plaintiff that his failure to comply with the court’s order within thirty (30) days would result in dismissal of this action, without prejudice, for failure to obey a court order and for failure to prosecute. (Id.) Nonetheless, plaintiff neither filed an

1 amended complaint or a notice of his willingness to proceed on the cognizable claim identified in
2 the screening order, nor did he otherwise communicate with the court.

3 On September 28, 2020, the magistrate judge therefore issued findings and
4 recommendations recommending that this action be dismissed, without prejudice, based on
5 plaintiff's failure to obey a court order and failure to prosecute. (Doc. No. 11.) Those findings
6 and recommendations were served on plaintiff and contained notice that any objections thereto
7 were to be filed within fourteen (14) days after service. (Id. at 3–4.) Plaintiff did not file
8 objections, and the time in which to do so has passed.


9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
10 de novo review of this case. Having carefully reviewed the entire file, the court finds the findings
11 and recommendations to be supported by the record and by proper analysis.

12 Accordingly,

- 13 1. The findings and recommendations issued on September 28, 2020 (Doc. No. 11)
14 are adopted in full;
- 15 2. This action is dismissed, without prejudice, due to plaintiff's failure to obey a
16 court order and failure to prosecute; and
- 17 3. The Clerk of Court is directed to close this case.

18 IT IS SO ORDERED.

19 Dated: November 23, 2020

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22 UNITED STATES DISTRICT JUDGE
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