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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN L. MILLER,

Plaintiff,

v.

COMMISSIONER OF THE STATE OF
CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

No. 1:21-cv-00176-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION

(Doc. No. 19)

Plaintiff Kevin L. Miller 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 April 21, 2021, the assigned magistrate judge screened plaintiff’s complaint pursuant to 28 U.S.C. § 1915A and determined that it failed to state a cognizable claim for relief. (Doc. No. 18.) Plaintiff was granted leave to file a first amended complaint attempting to cure the deficiencies identified by the magistrate judge within thirty (30) days after service of that screening order. (*Id.* at 9–10.) Plaintiff was warned that his failure to file a first amended complaint in compliance with the screening order would result in a recommendation that this action be dismissed for failure to obey a court order and failure to state a claim. (*Id.* at 10.) To

1 date, plaintiff has not filed an amended complaint or a notice of voluntary dismissal, and the
2 deadline in which to do so has now passed.

3 Accordingly, on June 9, 2021, the magistrate judge issued findings and recommendations
4 recommending that this action be dismissed due to plaintiff's failure to obey a court order, failure
5 to prosecute this action, and failure to state a claim upon which relief may be granted. (Doc. No.
6 19.) The pending findings and recommendations were served on plaintiff and contained notice
7 that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 11.) To
8 date, no objections to the findings and recommendations have been filed, and the time in which to
9 do so has now passed.

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

13 Accordingly,

- 14 1. The findings and recommendations issued on June 9, 2021 (Doc No. 19) are
15 adopted;
- 16 2. This action is dismissed, without prejudice, due to plaintiff's failure to obey a
17 court order and failure to prosecute this action; and
- 18 3. The Clerk of the Court is directed to close this case.

19 IT IS SO ORDERED.

20 Dated: July 13, 2021

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23 UNITED STATES DISTRICT JUDGE
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