

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT TUNSTALL,

Plaintiff,

No. CIV S-06-0727 LKK EFB P

vs.

M. VEAL, Warden, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 General Order No. 262.

On April 10, 2008, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty days. Plaintiff has not filed objections to the findings and recommendations.¹


¹ Although plaintiff has filed three documents since the issuance of the magistrate judge's findings and recommendations, none of them are responsive. The court has reviewed plaintiff's second amended complaint filed April 30, 2008, and finds that it fails to cure any of the deficiencies found by the magistrate judge in either the August 29, 2007 or the April 10, 2008 findings and recommendations.

1 The court has reviewed the file and finds the findings and recommendations to be
2 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY
3 ORDERED that:

4 1. The findings and recommendations filed April 10, 2008, are adopted in full;
5 and

6 2. This action is dismissed for plaintiff's failure to state a claim. *See* 28 U.S.C.
7 § 1915A; *see also Lopez v. Smith*, 203 F.3d 1122, 1128 (9th Cir. 2000) (indigent prisoner
8 proceeding without counsel must be given leave to file amended complaint unless the court can
9 rule out any possibility that the plaintiff could state a claim).

10 DATED: April 2, 2009.

11
12
13 
14 LAWRENCE K. KARLTON
15 SENIOR JUDGE
16 UNITED STATES DISTRICT COURT
17
18
19
20
21
22
23
24
25
26