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

BRYAN DAVIS, SR.,

Plaintiff,

No. 2:08-cv-2161 FCD JFM (PC)

vs.

DAVID R. SHAW, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

By order filed November 19, 2008, plaintiff's complaint was dismissed and thirty days leave to file an amended complaint was granted. On December 1, 2008, plaintiff filed a notice stating he declined to file an amended complaint. On December 17, 2008, plaintiff was granted an additional thirty days to amend the complaint and was warned that should he fail to amend the complaint, or again decline to amend the complaint, the court would recommend dismissal of the instant action. On December 29, 2008, plaintiff filed a second notice that he declined to amend his complaint.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty

1 days after being served with these findings and recommendations, plaintiff may file written
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's
3 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
5 F.2d 1153 (9th Cir. 1991).

6 DATED: January 14, 2009.

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9 UNITED STATES MAGISTRATE JUDGE

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