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

GREGORY C. BONTEMPS,

Plaintiff,

No. CIV S-09-2115 EFB P

vs.

SOTAK, et al.,

Defendants.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

Plaintiff is confined in a county correctional center and proceeds without counsel in an action brought pursuant to 42 U.S.C. § 1983. On February 1, 2010, the court dismissed plaintiff's original complaint with leave to amend. The court's order explained the deficiencies in the complaint and granted plaintiff thirty days to file an amended complaint. The order warned plaintiff that failure to comply would result in a recommendation that this action be dismissed.

The 30-day period has expired and plaintiff has not filed an amended complaint or otherwise responded to the court's order.

Accordingly, it is hereby ORDERED that the Clerk is directed to randomly assign a United States District Judge to this case.

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

5 These findings and recommendations are submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
7 after being served with these findings and recommendations, any party may file written  
8 objections with the court and serve a copy on all parties. Such a document should be captioned  
9 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
10 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
11 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: April 13, 2010.

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14 EDMUND F. BRENNAN  
15 UNITED STATES MAGISTRATE JUDGE  
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