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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THURMAN LEROY SPENCER,
Plaintiff,
v.
S. PAINTER, et al.,
Defendants.

No. 2:13-cv-02108 DAD P

ORDER AND FINDINGS
AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. 1983. This action is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local Rule 302(c), and Local General Order No. 262.

On April 10, 2014, this court dismissed plaintiff’s complaint with leave to file an amended complaint within 30 days. (ECF No. 18.) Plaintiff was informed that “failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed without prejudice[.]” (*Id.* at 5.) On May 15, 2014, the court granted plaintiff an additional 30 days within which to file an amended complaint, on or before Monday, June 16, 2014.¹ (ECF No. 22.) That deadline has now expired, and plaintiff has not filed an amended

¹ Because thirty days expired on Saturday, June 14, 2014, the deadline was automatically extended to the following Monday. See Fed. R. Civ. P. 6(a)(1)(C).

1 complaint or otherwise responded to the court's orders.

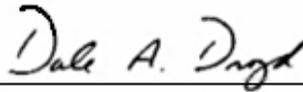
2 For the reasons stated in the court's April 10, 2014 order, concerning the deficiencies in
3 plaintiff's original complaint (ECF No. 18 at 3-4), and due to plaintiff's failure to abide by the
4 orders of this court directing the filing of an amended complaint (ECF Nos. 18, 22), the
5 undersigned recommends the dismissal of this action without prejudice.

6 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court is directed to randomly
7 assign a district judge to this case.

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

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
12 after being served with these findings and recommendations, plaintiff may file written objections
13 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
14 and Recommendations." Plaintiff is advised that failure to file objections within the specified
15 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
16 (9th Cir. 1991).

17 Dated: June 25, 2014

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20 DALE A. DROZD
21 UNITED STATES MAGISTRATE JUDGE

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