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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ODIS JOHNSON,  
Plaintiff,  
v.  
V. M. ALNAGER, et al.,  
Defendants.

No. 2:14-cv-0401 MCE CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis, who seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff’s First Amended Complaint was dismissed for failure to state a claim, and plaintiff was granted leave to amend. Before the court is plaintiff’s Second Amended Complaint (“SAC”), filed April 23, 2014.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

Here, the court finds that the SAC fails to cure the defects of the previous amended complaint. As the court concludes that further leave to amend would be futile, it will recommend dismissal of this action without prejudice.


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Accordingly, IT IS HEREBY RECOMMENDED that:

- 1. The Second Amended Complaint (ECF No. 12) be dismissed; and
- 2. This case be closed.

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

Dated: May 15, 2014

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE