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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WAYNE SMITH,
Plaintiff,
v.
OFFICER JOHN GIOVANNINI, et al.,
Defendants.

No. 2:14-cv-1501 GEB GGH PS

FINDINGS AND RECOMMENDATIONS

By order filed August 18, 2014, the court granted plaintiff twenty-eight days to file an amended complaint. In the screening order, the court informed plaintiff of the deficiencies in the complaint. The twenty-eight day period expired, and plaintiff did not file an amended complaint or otherwise respond to the court's order.

Accordingly, for the reasons given in the August 18, 2014, order, and for plaintiff's failure to present an amended complaint curing the defects of the original complaint as explained therein, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).¹

¹ The court has given consideration to plaintiff's status as a pro se litigant. Ferdik v. Bonzelet, 963 F.2d 1258, 1261 (9th Cir. 1992). The court has explained the defects in plaintiff's complaint and advised plaintiff that failures to correct them might result in dismissal. Delay is nearly always prejudicial to defendants. On the other hand, dismissal precludes adjudicating the merits of plaintiff's action. However, the court has considered less drastic sanctions, by issuing its order explaining the defects in the complaint. Plaintiff's failure to cure the complaint's defects leaves

