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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALBERT ERVING, JR.,
Plaintiff,
v.
CDCR, et al.,
Defendants.

No. 2:14-cv-2670 KJM AC P

FINDINGS AND RECOMMENDATIONS

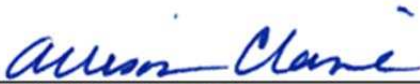
Plaintiff is a state prisoner proceeding pro se in this action commenced November 14, 2014. By order filed April 24, 2015, this court dismissed plaintiff’s original pleading and granted plaintiff leave to file, within thirty days, an amended pleading framed either as a civil rights complaint or a petition for writ of habeas corpus. See ECF No. 7. The court deferred ruling on plaintiff’s application to proceed in forma pauperis until such time that the court could determine whether this action would proceed in civil rights or habeas. Plaintiff was informed that “[f]ailure to timely file an amended pleading will result in a recommendation that this action be dismissed without prejudice.” Id. at 7. More than thirty days have passed, and plaintiff has not responded to the court’s order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge

1 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
2 after being served with these findings and recommendations, plaintiff may file written objections
3 with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings
4 and Recommendations.” Plaintiff is advised that failure to file objections within the specified
5 time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153
6 (9th Cir. 1991).

7 DATED: June 9, 2015

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ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE
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