

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL DIAZ,

 Plaintiff,

 v.

R. FOX, et al.,

 Defendants.

No. 2:14-cv-2705 JAM 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. On January 20, 2015, plaintiff’s complaint was dismissed for failure to state a claim, and he was granted one opportunity to amend. Before the court is plaintiff’s amended complaint (“FAC”), filed on April 13, 2015. (ECF No. 12.)

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).

Having reviewed the FAC, the undersigned concludes that it fails to state a claim under the legal standards set forth in the January 20, 2015 screening order. Because it appears that another round of amendment would be futile, the undersigned will recommend dismissal of this

1 action.

2 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed with
3 prejudice for failure to state a claim.

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

11 Dated: May 28, 2015

12 
13 _____
14 CAROLYN K. DELANEY
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19

20 2 / diaz2705.fac
21
22
23
24
25
26
27
28