1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	PETER GRAVES,	No. 2:15-cv-1135-WBS-EFB PS
12	Plaintiff,	
13	v.	ORDER
14	UNITED STATES MARSHALL OFFICE, et al.,	
15	Defendants.	
16		
17		
18	On January 31, 2017, the magistrate judge filed findings and recommendations herein,	
19	recommending that plaintiff's complaint be dismissed without leave to amend. While the	
20	magistrate judge correctly noted that there is no allegation that any of the defendants were acting	
21	under color of state law for purposes of 42 U.S.C. § 1983, the court cannot conclude that plaintiff	
22	would be unable to state a claim against defendants, as federal officers, under <u>Bivens v. Six</u>	
23	Unknown Named Agents, 403 U.S. 388 (1971). The court will therefore adopt the magistrate	
24	judge's recommendation to dismiss the complaint, but will afford plaintiff leave to amend to state	
25	a claim under <u>Bivens</u> .	
26	Accordingly, IT IS HEREBY ORDERED that plaintiff's complaint is dismissed without prejudice; and plaintiff is given 20 days from the date of this order to file an amended complaint	
27		
28		

1	if he can do so consistent with this or	der.
2	Datadi Eshmani 24 2017	
3	Dated: February 24, 2017	Million & shabe
4		WILLIAM B. SHUBB
5		UNITED STATES DISTRICT JUDGE
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
		2