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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUANE PEYTON LINDER,

Plaintiff,

v.

CARMALINO GALANG, M.D., et al.,

Defendants.

No. 2:17-cv-0941 AC P

ORDER AND

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner at Mule Creek State Prison who proceeds pro se and in forma pauperis with this civil rights action filed pursuant to 42 U.S.C. § 1983. By order filed November 28, 2017, this court informed plaintiff of the deficiencies in his complaint and the legal standards for stating cognizable claims to challenge his medical care. See ECF No. 10. The court dismissed plaintiff’s complaint with leave to file a First Amended Complaint (FAC) within thirty days, or by December 28, 2017; the court informed plaintiff that “[f]ailure to timely file a FAC will result in the dismissal of this action without prejudice.” Id. at 9. This deadline has passed but plaintiff has not responded to the court’s order.

Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a district judge to this action.

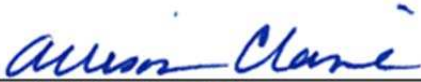
This court recommends that the instant action be dismissed without prejudice. See Fed. R. Civ. P. 41(b).

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These findings and recommendations are submitted to the United States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such 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).

SO ORDERED.

DATED: January 10, 2018



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE