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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH WAYNE FOSTER,
Plaintiff,
v.
LESLIE SCHMIDT, et al.,
Defendants.

No. 2:17-cv-2199-MCE-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On May 21, 2019, the court screened plaintiff’s amended complaint. ECF No. 13. The court dismissed the complaint for failure to state a claim, explained the deficiencies therein, and granted plaintiff thirty days in which to file an amended complaint to cure the deficiencies. The order warned plaintiff that failure to file an amended complaint could result in the dismissal of this action. The time for acting has passed and plaintiff has not filed an amended complaint or otherwise responded to the court’s order. Thus, it appears that plaintiff is unable to cure the defects in the complaint.

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1 Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice
2 for failure to state a claim as set forth in the May 21, 2019 order (ECF No. 13).

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
8 objections shall be served and filed within fourteen days after service of the objections. The
9 parties are advised that failure to file objections within the specified time may waive the right to
10 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
11 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: June 26, 2019.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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