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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   DAVID HENRY CURRY,   No. 2:17-cv-02372 TLN AC PS

12   Plaintiff,

13   v.   FINDINGS AND RECOMMENDATIONS

14   JAN SCULLY, et al.,

15   Defendants.

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17   Plaintiff, a state prisoner, is proceeding in this action pro se. The action was accordingly

18   referred to the undersigned for pretrial matters by E.D. Cal. R. ("Local Rule") 302(c)(21).

19   On April 16, 2018, the court denied plaintiff's application to proceed in form pauperis

20   ("IFP") because the application did not include a certified copy of his prison trust account

21   statement for the six-month period immediately preceding the filing of his complaint. ECF No.

22   12. The court granted plaintiff 30 days to renew the IFP application. Id. Plaintiff was cautioned

23   that failure to comply could lead to a recommendation that the action be dismissed. Id. Plaintiff

24   did not respond. On May 18, 2018 the court issued an order to show cause why this case should

25   not be dismissed for failure to prosecute. ECF No. 13. Plaintiff has not responded to the court's

26   orders, nor taken any action to prosecute this case.

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1   Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without

2 prejudice, for lack of prosecution and for failure to comply with the court's order. <u>See</u> Fed. R.

3 Civ. P. 41(b); Local Rule 110.

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

5 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within twenty-one (21)

6 days after being served with these findings and recommendations, plaintiff may file written

7 objections with the court. Such document should be captioned "Objections to Magistrate Judge's

8 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file

9 objections within the specified time may waive the right to appeal the District Court's order.

10 <u>Martinez v. Ylst</u>, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: June 5, 2018

12   ALLISON CLAIRE

13   UNITED STATES MAGISTRATE JUDGE

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