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1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 No. 2:19-cv-2024 AC P KENNETH GARVIN, 12 Plaintiff. 13 v. ORDER AND FINDINGS & RECOMMENDATIONS 14 MULE CREEK STATE PRISON, 15 Defendant. 16 17 By order filed April 12, 2021, the complaint was screened and found to not state a claim for relief. ECF No. 7. Plaintiff was given thirty days to file an amended complaint and cautioned 18 19 that failure to do so would result in a recommendation that this action be dismissed. Id. at 6. He 20 then requested and was granted two sixty-day extensions of time. ECF Nos. 12, 15. In granting 21 the second motion for an extension, the court warned plaintiff that no further extensions would be 22 granted, and that failure to file an amended complaint would result in a recommendation that this 23 action be dismissed. ECF No. 15. The time for filing an amended complaint has now passed, and 24 plaintiff has not filed an amended complaint or otherwise responded to the court's order. 25 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to 26 randomly assign a United States District Judge to this action. 27

IT IS FURTHER RECOMMENDED that the complaint be dismissed for failure to state a claim for the reasons set forth in the April 12, 2021 Screening Order (ECF No. 7). <u>See</u> L.R. 110;

Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915A.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a 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).

DATED: October 15, 2021

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE