1

2

3

4

5

6

7

8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11   AARON W. ASHBY,   No. 2:20-cv-0544 DB P

12   Plaintiff,

13   v.   ORDER AND FINDINGS AND
                                               RECOMMENDATIONS
14   TOM BOSENKO, et al.,

15   Defendants.

16

17   Plaintiff is a state inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C.

18   § 1983. Plaintiff claims his rights were violated when he was directed to clean a cell without

19   being provided adequate safety equipment. By order dated August 28, 2020, the court screened

20   the complaint and determined it did not contain any cognizable claims. (ECF No. 13.) Plaintiff

21   was given sixty days leave to file an amended complaint and warned that failure to file an

22   amended complaint would result in a recommendation that this action be dismissed. Those sixty

23   days have passed, and plaintiff has not filed an amended complaint, requested additional time to

24   file an amended complaint, or otherwise responded to the court's order. Accordingly, the court

25   will recommend that this action be dismissed for failure to prosecute and failure to comply with

26   court orders.

27   For the reasons state above, the Clerk of the Court is ORDERED to randomly assign a

28   district judge to this action.

                                               1

1   IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. <u>See</u>

2 Local Rule 110; Fed. R. Civ. P. 41(b).

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)(l). Within fourteen days

5 after being served with these findings and recommendations, plaintiff may file written objections

6 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." Plaintiff is advised that

8 failure to file objections within the specified time may waive the right to appeal the District

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

10 Dated: December 6, 2020

11

12

13   DEBORAH BARNES
          UNITED STATES MAGISTRATE JUDGE

14

15

16

17

18

19

20 DB:12
DB:1/Orders/Prisoner/Civil.Rights/ashb0544.f&r.dism

21

22

23

24

25

26

27

28