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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELIJAH LEE MILLER,  
  
Plaintiff,  
  
v.  
  
MULE CREEK STATE PRISON,  
  
Defendants.

No. 2:21-cv-01122 DB P  
  
ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order dated February 8, 2022, the court found plaintiff’s complaint failed to state a cognizable claim. (ECF No. 11.) The court dismissed the complaint and granted plaintiff thirty-days leave to file an amended complaint. (Id. at 10.) Plaintiff failed to file an amended complaint, request an extension of time, or otherwise respond to the court’s order within thirty days. On May 24, 2022, the court ordered plaintiff to file an amended complaint or show cause why this action should not be dismissed for failure to prosecute and failure to comply with court orders within 30 days of the date of this order. (ECF No. 14.) A thirty-day deadline was set for plaintiff to respond. (Id. at 2.) Plaintiff was warned that failure to abide by the court’s order would result in a recommendation that this action be dismissed. (Id.)

More than thirty days have passed and plaintiff has not shown cause why this action should not be dismissed, filed an amended complaint, requested an extension of time, or

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1 otherwise responded to the court's orders. Accordingly, it will be recommended that this action  
2 be dismissed for failure to comply with court orders and failure to prosecute.

3 For the reasons state above, the Clerk of the Court is ORDERED to randomly assign a  
4 district judge to this action.

5 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See  
6 Local Rule 110; Fed. R. Civ. P. 41(b).

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days  
9 after being served with these findings and recommendations, plaintiff may file written objections  
10 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
11 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
12 objections within the specified time may waive the right to appeal the District Court's order.  
13 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 Dated: November 22, 2022

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17 DEBORAH BARNES  
18 UNITED STATES MAGISTRATE JUDGE  
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