UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DARRELL ONEIL BUCKNER,

Plaintiff,

v.

SACRAMENTO POLICE DEPARTMENT, et al.,

Defendants.

No. 2:23-cv-01723-TLN-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff, a county jail inmate, proceeds 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 November 28, 2023, the court screened plaintiff's first amended complaint pursuant to 28 U.S.C. § 1915A. ECF No. 10. The court dismissed the complaint for failure to state a claim and granted plaintiff thirty days in which to file an amended complaint to cure the deficiencies. *Id.* The screening order warned plaintiff that failure to comply could result in a recommendation that this action be dismissed.

Plaintiff appealed the order to the Ninth Circuit. ECF No. 12. On February 29, 2024, that court dismissed the appeal for want of jurisdiction. ECF No. 15. On March 5, 2024, this court ordered plaintiff to file a second amended complaint within 30 days. ECF No. 16.

The time for acting has now passed and plaintiff has not filed an amended complaint or

otherwise responded to the court's order. Thus, it appears that plaintiff is unable or unwilling to cure the defects in the complaint.

Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice for the reasons stated in the November 28, 2023 screening order.

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, any party 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." Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: May 7, 2024

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE