



(PC)Gonzales v. Mims

2014 | Cited 0 times | E.D. California | August 14, 2014

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

LEONARD QUIROZ GONZALES, Plaintiff, vs. MARGARET MIMS, et al., Defendants.

1:13-cv-01069-LJO-GSA-PC FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT THIS ACTION BE DISMISSED, WITH PREJUDICE, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED (Doc. 1.) OBJECTIONS, IF ANY, DUE IN THIRTY DAYS

Leonard Quiroz Gonzales (APlaintiff@) is an inmate at the Fresno County Jail, proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. ' 1983. Plaintiff filed the Complaint commencing this action on July 12, 2013. (Doc. 1.) On January 24, 2014, Plaintiff filed the First Amended Complaint. (Doc. 11.)

On July 1, 2014, the Court dismissed Plaintiff=s First Amended Complaint for failure to state a claim, with leave to file a Second Amended Complaint within thirty days. (Doc. 12.) 28 U.S.C. ' 1915A; 28 U.S.C. ' 1915(e). To date, Plaintiff has not complied with or otherwise responded to the Court=s order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. ' 1915A and 28 U.S.C. ' 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff=s failure 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

to state a claim upon which relief may be granted under section 1983, and that this dismissal be subject to the Athree-strikes@ provision set forth in 28 U.S.C. ' 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098 (9th Cir. 2011).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. ' 636(b)(l). Within thirty days after being served with these findings and recommendations, Plaintiff may file written objections with the court. 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).



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IT IS SO ORDERED. Dated: August 13, 2014 /s/ Gary S. Austin UNITED STATES MAGISTRATE
JUDGE

