

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEBRHATO TSEHAI,

Plaintiff,

vs.

M. SMITH, et al.,

Defendants.

Case No. 2:06-cv-01175 JKS DAD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On January 16, 2007, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty days. Plaintiff has not filed objections to the findings and recommendations.

Specifically, the magistrate judge recommended dismissal because Plaintiff failed to comply with the Court's direction to file an amended complaint within 30 days. The Court has reviewed the file and concurs that Plaintiff's Complaint failed to state a claim because Plaintiff's allegations did not objectively show a serious deprivation of his right to humane conditions or establish subjectively a culpable state of mind for any of the Defendants. Moreover, the Court notes that Plaintiff has failed to follow the Court's order to file an amended complaint. Having reviewed the

file and found the findings and recommendations to be supported by the record and by the magistrate judge's analysis, the Court finds dismissal appropriate. *See* Local Rule 11-110; Fed. R. Civ. P. 41(b).

Accordingly, **IT IS HEREBY ORDERED** that:

1. The findings and recommendations filed January 16, 2007, are adopted in full;
2. This action is dismissed without prejudice; and
3. The Clerk shall enter judgment accordingly.

Dated this the 21st day of February 2008.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge

ORDER