

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RUBEN VALDEZ,

Plaintiff-Appellant,

v.

MATTHEW CATE, Secretary of
Corrections, California Department of
Corrections; et al.,

Defendants-Appellees.

No. 16-16948

D.C. No. 2:12-cv-01352-CMK

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Craig Kellison, Magistrate Judge, Presiding

Submitted January 16, 2018**

Before: REINHARDT, TROTT, and HURWITZ, Circuit Judges.

California state prisoner Ruben Valdez appeals pro se from the magistrate judge's orders dismissing his 42 U.S.C. § 1983 action alleging due process violations in connection with his validation as a gang member. We have

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 28 U.S.C. § 1291. We review de novo whether the magistrate judge validly entered judgment on behalf of the district court. *Allen v. Meyer*, 755 F.3d 866, 867-68 (9th Cir. 2014). We vacate and remand.

Valdez consented to proceed before the magistrate judge. *See* 28 U.S.C. § 636(c). The magistrate judge then screened and dismissed Valdez's claims against three of the originally named defendants before they had been served. *See* 28 U.S.C. § 1915A. The magistrate judge also granted judgment on the pleadings for the remaining defendants, including seven defendants named in Valdez's second amended complaint who had not consented to proceed before the magistrate judge. Because all parties, including unserved defendants, must consent to proceed before the magistrate judge for jurisdiction to vest, *Williams v. King*, 875 F.3d 500, 503-04 (9th Cir. 2017), we vacate the magistrate judge's orders and remand for further proceedings.

Valdez's motions for appointment of counsel and to take judicial notice (Docket Entry Nos. 29 and 30) are denied.

VACATED and REMANDED.