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

ANTHONY CRAIG SMITH,

Plaintiff,

No. 2:07-cv-1707 WBS KJN P

vs.

CITY OF VALLEJO, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____/

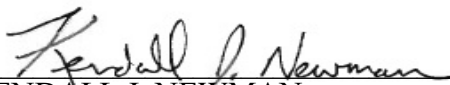
Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On December 4, 2007, plaintiff’s claims against defendants City of Vallejo and Vallejo Police Department were dismissed with leave to amend. Plaintiff was granted the option to file an amended complaint or, if he filed the materials for return of service of process, the court would construe plaintiff’s election as consent to dismissal of all claims against defendants City of Vallejo and the Vallejo Police Department without prejudice. Plaintiff failed to file either an amended complaint or the service materials, and this action was dismissed on March 19, 2008. Subsequently, plaintiff filed a motion for reconsideration, which the district court granted on March 12, 2009, and the December 4, 2007 order was re-served on plaintiff. Plaintiff filed the notice of submission of documents for service of process on March 27, 2009. Thus, plaintiff elected to consent to dismissal of all claims against defendants City of Vallejo and

1 the Vallejo Police Department without prejudice.

2 Accordingly, IT IS HEREBY RECOMMENDED that defendants City of Vallejo
3 and the Vallejo Police Department be dismissed from this action without prejudice. Fed. R. Civ.
4 P. 41.

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

12 DATED: May 25, 2010

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16 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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