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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSE VELA,

Plaintiff,

v.

UNITED STATES OF AMERICA,
et al.,

Defendants.

NO. EDCV 16-2526-DMG (AGR)

ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed Plaintiff’s motion for dismissal of Second Amended Complaint, the records on file, the Report and Recommendation of the United States Magistrate Judge (“Report”), and the objections filed by both Plaintiff and Defendant. Further, the Court has engaged in a *de novo* review of those portions of the Report to which a party has objected.

The Court construes Plaintiff’s objections as a motion for a stay until he is released from custody. Plaintiff’s objections include an “Erratum [] Notice and Motion to Amend Plaintiff’s Motion to Dismiss Without Prejudice.” [Doc. # 197.] Although not entirely clear, Plaintiff asks for dismissal without prejudice or “a pause in these matters until the Plaintiff is released out of the custody of the Defendants and back to society so that he may seek assistance in these matters.” (*Id.* at 13.)¹ Plaintiff

¹ Page citations are to the page numbers assigned by CM/ECF in the header of the document.

1 explains that he sought dismissal so that he could continue with the litigation once
2 released from custody. (*Id.* at 11, 13.) The Magistrate Judge ordered Defendant to
3 file a response to Plaintiff’s motion for a stay. [Doc. # 200.] Defendant filed a
4 response. [Doc. # 203.] The Magistrate Judge ordered Plaintiff to file a reply but
5 Plaintiff did not do so. [Doc. # 207.]

6 According to the Bureau of Prisons website, Plaintiff’s projected release date
7 from residential reentry is March 31, 2021. (Williams Decl. ¶ 12, Doc. # 203-1);
8 <https://www.bop.gov/inmateloc>.

9 IT IS ORDERED that Plaintiff’s motion for dismissal of the Second Amended
10 Complaint is DENIED and his alternative motion for a stay of proceedings is
11 GRANTED IN PART until March 31, 2021. [Doc. # 190.] The matter is referred back
12 to the Magistrate Judge to address pending motions.

13 Plaintiff is reminded that it is his responsibility to apprise the Court and
14 opposing counsel of his current address as well as telephone number and email
15 address. Failure to do so may result in dismissal of this action for failure to
16 prosecute. Local Rule 41-6.

17
18 DATED: March 22, 2021



DOLLY M. GEE
United States District Judge