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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGAL SAMUELS  
Plaintiff,  
v.  
PAM AHLIN, et al.,  
Defendants.

Case No. 1:10-cv-00585-DAD-EPG

ORDER GRANTING IN PART THE  
COUNTY OF FRESNO’S MOTION TO  
QUASH SERVICE OF PROCESS OR TO  
DISMISS PLAINTIFF’S ACTION IN THE  
ALTERNATIVE (Doc. No. 53.)

(Doc. No. 53.)

Dougal Samuels (“plaintiff”) is a civil detainee proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. On January 20, 2017, defendant County of Fresno filed a motion to quash service of process or, in the alternative, to dismiss plaintiff’s action. (Doc. No. 53.)

Plaintiff has asserted various claims in connection with contracting Valley Fever while housed at Coalinga State Hospital. Initially, plaintiff’s complaint was dismissed at the screening stage for failure to state a claim. (Doc. No. 16.) Plaintiff appealed and the United States Court of Appeals for the Ninth Circuit reversed in part and remanded, stating that “dismissal of Samuel’s safe conditions claim was premature” and that plaintiff “is not barred from bringing suit against the members of the Fresno County Board of Supervisors in their official capacity.” (Doc. No. 22 at 3.) Thereafter, plaintiff filed a Third Amended Complaint on July 15, 2016. (Doc. No. 40.)

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1 In its pending motion to quash service of process or to dismiss plaintiff’s action, the  
2 defendant County asserts that the Fresno County Board of Supervisors (“FCBS”) is a sub-unit of  
3 the County of Fresno and thus does not constitute a “person” within the meaning of § 1983.  
4 (Doc. No. 53 at 1–4.) The County also argues that it was erroneously served because it is not a  
5 named defendant in this action. (Doc. No. 53 at 4–5.) The magistrate judge assigned to this  
6 action held a hearing on the County’s pending motion (Doc. No. 68) and subsequently issued an  
7 order requiring plaintiff to notify the court if he wished to substitute the County of Fresno or any  
8 other defendants in place of the FCBS. (Doc. No. 70.) Plaintiff filed a notice of non-substitution  
9 of defendants on May 22, 2017. (Doc. No. 71.)

10 On July 24, 2017, the magistrate judge issued findings and recommendations,  
11 recommending that plaintiff’s claim against defendant FCBS be dismissed because it is not a  
12 “person” under § 1983 and that the County of Fresno’s motion to quash service of process be  
13 granted. (Doc. No. 74.) Plaintiff filed objections to the findings and recommendations. (Doc.  
14 No. 75.) However, therein plaintiff did not actually object to the recommendation set forth in the  
15 findings and recommendations. Instead, he merely asked for additional time so that he could  
16 identify the appropriate defendants. (*Id.* at 2.) The County of Fresno filed a reply to plaintiff’s  
17 objections. (Doc. No. 77.)

18 The magistrate judge granted plaintiff’s request for an extension of time and gave plaintiff  
19 thirty days to file additional objections to the findings and recommendations. (Doc. No. 76.) The  
20 order stated that plaintiff could “identify the defendants he wants to substitute into the case, and  
21 request that he be allowed to substitute them into the case.” (*Id.* at 1-2).

22 Instead of filing additional objections, Plaintiff filed a motion to submit the names of the  
23 individuals that make up the FCBS. (Doc. No. 79.) The magistrate judge vacated the findings  
24 and recommendations issued on July 24, 2017, granted plaintiff’s motion, and Supervisors Brian  
25 Pacheco (representative of District 1), Sal Quintero (representative of District 3), Andreas  
26 Borgeas (representative of District 2), Nathan Magsig (representative of district 5), and Buddy  
27 Mendes (representative of District 4) were substituted into the case as defendants in place of  
28 defendant FCBS. (Doc. No. 84.)

