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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELAINE K. VILLAREAL,
Plaintiff,
v.
COUNTY OF FRESNO and SHERIFF
MARGARET MIMS,
Defendants.

Case No. 1:15-cv-01410-DAD-EPG (PC)
FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT DEFENDANT
COUNTY OF FRESNO’S MOTION TO
DISMISS BE DENIED AS MOOT
(ECF NO. 86)
OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

Elaine Villareal (“Plaintiff”) is a state prisoner proceeding *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 5, 2018, defendant County of Fresno filed a motion to dismiss Plaintiff’s original complaint. (ECF No. 86). On March 12, 2018, Plaintiff filed a First Amended Complaint. (ECF No. 91). As Plaintiff’s amended complaint supersedes the original complaint, Lacey v. Maricopa County, 693 F 3d. 896, 907 n.1 (9th Cir. 2012) (*en banc*), defendant County of Fresno’s motion to dismiss is moot.

Accordingly, IT IS HEREBY RECOMMENDED that defendant County of Fresno’s motion to dismiss be DENIED as moot.

These findings and recommendations are submitted to the United States district judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within fourteen**

1 (14) days after being served with these findings and recommendations, any party may file written
2 objections with the court. Such a document should be captioned "Objections to Magistrate
3 Judge's Findings and Recommendations." Any reply to the objections shall be served and filed
4 within seven (7) days after service of the objections. The parties are advised that failure to file
5 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
6 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
7 (9th Cir. 1991)).

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9 IT IS SO ORDERED.

10 Dated: March 20, 2018

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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