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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL DEAN ALVARADO, JR.,

Plaintiff,

v.

COUNTY OF TULARE, *et al.*,

Defendants.

Case No. 1:17-cv-01396-NONE-BAM (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(ECF No. 23)

ORDER DIRECTIONG CLERK OF COURT
TO RE-SERVE MAY 21, 2019 ORDER
DIRECTING PLAINTIFF TO SUBMIT
SERVICE DOCUMENTS

ORDER DIRECTING PLAINTIFF TO
SUBMIT COMPLETED SERVICE
DOCUMENTS OR SHOW CAUSE WHY
THIS ACTION SHOULD NOT BE
DISMISSED FOR FAILURE TO
PROSECUTE
(ECF No. 21)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Daniel Dean Alvarado, Jr. (“Plaintiff”) is a former pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action. This action proceeds on Plaintiff’s first amended complaint against Defendant Rales for excessive force in violation of the Fourteenth Amendment.

On May 21, 2019, the Court issued an order authorizing service of Plaintiff’s first amended complaint and forwarding service documents to Plaintiff for completion and return within thirty days. (ECF No. 21.) The order was served on Plaintiff’s address of record. (Id.)

1 On August 22, 2019, the Court's order was returned as Undeliverable, Unclaimed. Following
2 Plaintiff's failure to provide an updated address or otherwise communicate with the Court, on
3 October 10, 2019, the undersigned issued findings and recommendations for dismissal of this
4 action due to Plaintiff's failure to prosecute. (ECF No. 23.) Plaintiff timely filed objections to
5 the findings and recommendations on October 21, 2019. (ECF No. 24.)

6 In Plaintiff's objections, Plaintiff appeared to provide an updated mailing address. (Id. at
7 4.) The objections were otherwise composed of handwritten notations to the Court's October 10,
8 2019 findings and recommendations, as well as unexplained and seemingly unrelated
9 attachments. (Id.) As Plaintiff has provided an updated mailing address, the Court finds it
10 appropriate to vacate the pending findings and recommendations for failure to prosecute.

11 However, this action cannot proceed without Plaintiff's completion and submission of the
12 required service documents for Defendant Rales. Plaintiff's objections to the findings and
13 recommendations did not include the required service documents, nor did they provide any
14 indication of Plaintiff's intention to comply with the Court's May 21, 2019 order requiring their
15 submission. Plaintiff was expressly warned in that order that his failure to comply would result in
16 dismissal of this action. (ECF No. 21, p. 2.) As it appears Plaintiff did not receive the Court's
17 May 21, 2019 order due to his failure to update his address, the Court will allow Plaintiff another
18 opportunity to comply.

19 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 20 1. The findings and recommendations issued on October 10, 2019, (ECF No. 23), are
21 VACATED;
- 22 2. The Clerk of the Court is directed re-serve a copy of the Court's May 21, 2019 order
23 directing Plaintiff to submit service documents, (ECF No. 21), including all attachments
24 on Plaintiff at his current address of record;
- 25 3. Within **twenty-one (21) days** from the date of service of this order, Plaintiff shall submit
26 completed service documents for Defendant Rales, as discussed in the Court's May 21,
27 2019 order, or shall show cause in writing why this action should not be dismissed for
28 failure to prosecute; and

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4. **Plaintiff's failure to comply with this order will result in a recommendation of dismissal of this action for failure to obey court orders and failure to prosecute.**

IT IS SO ORDERED.

Dated: August 28, 2020

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE