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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 ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF ACTION FOR FAILURE TO
OBEY COURT ORDERS AND FAILURE TO
PROSECUTE

(Doc. No. 27)

Plaintiff Daniel Dean Alvarado, Jr. is a former pretrial detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on plaintiff’s first amended complaint against defendant Rales for excessive use of force in violation of the Fourteenth Amendment. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 22, 2019, the assigned magistrate judge screened plaintiff’s first amended complaint and issued findings and recommendations that this action proceed on plaintiff’s claim for excessive use of force against defendant Rales in violation of the Fourteenth Amendment and all other claims and defendants be dismissed from this action for failure to state a claim. (Doc. No. 19.) On May 17, 2019, the formerly assigned district judge issued an order adopting the findings and recommendations in full. (Doc. No. 20.) Accordingly, on May 21, 2019, the magistrate judge found service appropriate for defendant Rales and issued an order directing

1 plaintiff to submit service documents for defendant Rales within thirty (30) days. (Doc. No. 21.)
2 The order also warned plaintiff that failure to comply with that order would result in dismissal of
3 this action. (Id.) On May 28, 2019, the court received plaintiff's belated objections to the April
4 22, 2019 findings and recommendations. (Doc. No. 22.)

5 Despite plaintiff apparently receiving the findings and recommendations, on August 2,
6 2019, the findings and recommendations that had been originally served to plaintiff's mailing
7 address of record were returned to the court as "Undeliverable, Unclaimed." The court's service
8 order was also returned to the court as "Undeliverable, Unclaimed" on August 22, 2019.
9 Following plaintiff's failure to provide the court an updated address or otherwise communicate
10 with the court, on October 10, 2019, the magistrate judge issued findings and recommendations
11 recommending dismissal of this action due to plaintiff's failure to prosecute. (Doc. No. 23.)
12 Plaintiff timely filed objections to those findings and recommendations on October 21, 2019.
13 (Doc. No. 24.)

14 As plaintiff's objections appeared to provide an updated mailing address, the court found
15 it appropriate to vacate the pending findings and recommendations recommending dismissal of
16 this action due to plaintiff's failure to prosecute. (Doc. No. 26.) However, plaintiff still had not
17 provided completed service documents for defendant Rales. Therefore, the court ordered re-
18 service to plaintiff's current address of record of the May 21, 2019 order directing plaintiff to
19 submit service documents, and also ordered plaintiff to submit completed service documents for
20 defendant Rales or show cause in writing why this action should not be dismissed due to his
21 failure to prosecute. Plaintiff was warned that his failure to comply with that order would result
22 in a recommendation of dismissal of this action for failure to obey court orders and failure to
23 prosecute. (Id.)

24 Following plaintiff's failure to file the required service documents, a notice of change of
25 address, or to otherwise communicate with the court, on September 28, 2020 the magistrate judge
26 again issued findings and recommendations that this action be dismissed, without prejudice, due
27 to plaintiff's failure to obey court orders and failure to prosecute. (Doc. No. 27.) Those findings
28 and recommendations were served on plaintiff and contained notice that any objections thereto

1 were to be filed within fourteen (14) days after service. (Id. at 4.) The deadline to file objections
2 has passed, and plaintiff has failed to file objections to the pending findings and recommendations
3 or otherwise communicate with the court regarding this action.


4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
5 de novo review of this case. Having carefully reviewed the entire file, the court finds the findings
6 and recommendations to be supported by the record and by proper analysis.

7 Accordingly,

- 8 1. The findings and recommendations issued on September 28, 2020, (Doc. No. 27),
9 are adopted in full;
- 10 2. This action is dismissed, without prejudice, due to plaintiff's failure to obey court
11 orders and failure to prosecute; and
- 12 3. The Clerk of the Court is directed to close this case.

13 IT IS SO ORDERED.

14 Dated: November 10, 2020



UNITED STATES DISTRICT JUDGE

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