1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 RELMON H. DAVIS, III, Case No. 1:18-cv-00608-DAD-BAM (PC) 12 ORDER DENYING AS MOOT PLAINTIFF'S Plaintiff. MOTION FOR EXPEDITED REVIEW 13 v. (ECF No. 26) 14 GIBSON, et al., ORDER DIRECTING CLERK OF COURT TO 15 Defendants. RE-SERVE ECF NO. 25 ON PLAINTIFF AT HIS ADDRESS OF RECORD 16 **FOURTEEN (14) DAY DEADLINE** 17 18 Plaintiff Relmon H. Davis, III is a state prisoner proceeding pro se and in forma pauperis 19 in this civil rights action pursuant to 42 U.S.C. § 1983. 20 On October 30, 2019, the assigned magistrate judge issued findings and recommendation, 21 recommending dismissal of this action, with prejudice, for failure to state a cognizable claim 22 upon which relief may be granted. (ECF No. 25.) The findings and recommendation were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) 23 days after service. (Id. at 11.) 24 However, on November 15, 2019, the October 30, 2019 findings and recommendation 25 26 were returned by the U.S. Postal Service as "Undeliverable, Refused by Inmate." 27 Currently before the Court is Plaintiff's motion for expedited review, filed on January 27, 28 2020. (ECF No. 26.) In his motion, Plaintiff requests that this Court expedite the review of his

second amended complaint because this action has been already been pending for more than four years given that this action was initially filed in the U.S. District Court for the Central District of California on August 28, 2015.

However, as stated above, the Court screened Plaintiff's second amended complaint and issued findings and recommendation recommending that this action be dismissed, with prejudice, for Plaintiff's failure to state a cognizable claim upon which relief may be granted. (ECF No. 25.) Therefore, Plaintiff's motion for expedited review is denied as moot.

Nevertheless, given that the October 30, 2019 findings and recommendation were returned as "undeliverable," it appears that Plaintiff did not receive the findings and recommendation. Consequently, the Court will order the Clerk of the Court to re-serve the October 30, 2019 findings and recommendation on Plaintiff at his current address of record. Plaintiff may file written objections to the October 30, 2019 findings and recommendations within fourteen (14) days after the findings and recommendations are re-served.

Accordingly, it is HEREBY ORDERED that:

- 1. Plaintiff's motion for expedited review, (ECF No. 26), is DENIED as moot;
- 2. The Clerk of the Court is directed to re-serve the findings and recommendation issued on October 30, 2019, (ECF No. 25), on Plaintiff at his address of record; and
- 3. In light of the re-service, Plaintiff may file written objections to the October 30, 2019 findings and recommendation within **fourteen (14) days** after the date that the findings and recommendation are re-served.

IT IS SO ORDERED.

Dated: January 29, 2020 /s/ Barlara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE