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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RELMON H. DAVIS, III,
Plaintiff,
v.
GIBSON, et al.,
Defendants.

No. 1:18-cv-00608-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION WITH PREJUDICE

(Doc. No. 25.)

Plaintiff Relmon H. Davis, III is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 1, 2019, the assigned magistrate judge issued findings and recommendations, recommending dismissal of this action with prejudice due to plaintiff’s failure to state a cognizable claim upon which relief may be granted. (Doc. No. 25.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 11.) After being served by mail at his address of record, on November 15, 2019, the findings and recommendations were returned to the court by the U.S. Postal Service marked as “Undeliverable, Refused by Inmate.”

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1 On January 27, 2020, plaintiff filed a motion for expedited review of his second amended
2 complaint. (Doc. No. 26.) On January 29, 2020, the magistrate judge denied plaintiff’s motion
3 for expedited review as moot, because the magistrate judge had already screened plaintiff’s
4 second amended complaint and recommended dismissal of it in the November 1, 2019 findings
5 and recommendations. (Doc. No. 27.) Additionally, the magistrate judge directed the Clerk of
6 the Court to re-serve those findings and recommendations on plaintiff and granted plaintiff an
7 additional fourteen days from the date of re-service, to file written objections to the findings and
8 recommendations. (*Id.* at 2.) On February 14, 2020, the court received plaintiff’s written
9 objections to the findings and recommendations, with a proof of service indicating that they were
10 delivered to prison officials for mailing on February 5, 2020. (Doc. No. 29.)¹

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
12 court has conducted a de novo review of the case. Having carefully reviewed the entire file,
13 including plaintiff’s objections, the court finds the findings and recommendations to be supported
14 by the record and proper analysis.

15 Plaintiffs objections do not address the deficiencies present in his second amended
16 complaint. Central in that regard is that the allegations of the second amended complaint “are
17 vague and conclusory statements unsupported by any facts” (Doc. No. 25 at 5) and fail to
18 “adequately link [the defendants] to any deprivation of his constitutional rights” (*id.* at 6). In his
19 objections, plaintiff simply reiterates his conclusory statements and fails to explain how the
20 named defendants have caused the harms alleged. Plaintiff’s most specific argument is that his
21 claims should be “construed as denial of legal services and access to the courts.” (Doc. No. 29 at
22 2.) The findings and recommendations addressed plaintiff’s claims of denial of access to the
23 courts, concluding that “[p]laintiff has not identified which of the named [d]efendants allegedly
24 interfered with his right to access the courts” and “[p]laintiff has not stated a cognizable claim for
25 a denial of his constitutional right to access the courts.” (Doc. No. 25 at 8–9.) Plaintiff’s

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28 ¹ This date of mailing would render the objections timely filed under the mailbox rule. *See Houston v. Lack*, 487 U.S. 266, 272–73 (1988).

1 objections provide no basis to question the analysis set forth in the pending findings and
2 recommendations.

3 Accordingly,

4 1. The findings and recommendations issued on November 1, 2019 (Doc. No. 25) are
5 adopted in full;

6 2. Plaintiff's second amended complaint is dismissed with prejudice for failure to
7 state a claim; and

8 3. The Clerk of the Court is directed to close this case.

9 IT IS SO ORDERED.

10 Dated: August 13, 2020

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13 UNITED STATES DISTRICT JUDGE
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