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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RYAN DAVID FREITAG,
Plaintiff,
v.
MARGARET MIMS, et al.,
Defendants.

No. 1:18-cv-01180-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION FOR FAILURE TO PROSECUTE

(Doc. No. 9)

Plaintiff Ryan David Freitag 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 January 24, 2019, the assigned magistrate judge screened plaintiff’s complaint pursuant to 28 U.S.C. § 1915A. (Doc. No. 8.) Plaintiff was granted leave to file a first amended complaint or to notify the court that he wished to stand on the complaint within thirty (30) days of from the date of service. (*Id.* at 11.) Plaintiff was warned that his failure to file an amended complaint or inform the court of his desire to stand on the complaint in compliance with the screening order would result in dismissal of this action for failure to state a claim, failure to prosecute, and failure to comply with a court order. (*Id.*) More than thirty days have passed, but

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1 to date, plaintiff has not filed a first amended complaint, informed the court of his desire to stand
2 on the complaint, or otherwise communicated with the court.

3 Therefore, on August 30, 2019, the magistrate judge issued findings and
4 recommendations, recommending dismissal of this action, without prejudice, due to plaintiff's
5 failure to failure to prosecute this action. (Doc. No. 9.) The findings and recommendations were
6 served on plaintiff¹ and contained notice that any objections thereto were to be filed within
7 fourteen (14) days after service. (*Id.* at 3.) To date, no objections to the findings and
8 recommendations have been filed, and the time in which to do so has now passed.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
10 *de novo* review of the case. Having carefully reviewed the entire file, the court adopts the
11 findings and recommendations.

12 Accordingly,

- 13 1. The findings and recommendations issued on August 30, 2019 (Doc No. 9) are
14 adopted;
- 15 2. This action is dismissed due to plaintiff's failure to prosecute; and
- 16 3. The Clerk of the Court is directed to close this case.

17 IT IS SO ORDERED.

18 Dated: November 15, 2019

19 
20 _____
21 UNITED STATES DISTRICT JUDGE

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24 _____
25 ¹ The court notes that both the January 24, 2019 screening order and the August 30, 2019
26 findings and recommendations were served on plaintiff at his address of record but returned to the
27 court as undeliverable. It thus appears that plaintiff has failed to comply with Local Rules 182(b)
28 and 183(b), requiring that a party appearing in propria persona inform the court of any address
change and that dismissal is therefore appropriate due to plaintiff's failure in this regard as well.
Local Rule 183(b).