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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**
5

6 **NORMAN GERALD DANIELS, III,**

7 **Plaintiff,**

8 **v.**

9 **SHERMAN,**

10 **Defendant.**

CASE NO. 1:18-cv-01420-AWI-BAM (PC)

**ORDER DENYING PLAINTIFF'S
MOTION FOR THIRTY-DAY
EXTENSION OF TIME TO FILE A
SECOND AMENDED COMPLAINT AS
MOOT, ADOPTING FINDINGS AND
RECOMMENDATIONS, AND
DISMISSING CASE**

(Doc. Nos. 16 & 21)

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14 Plaintiff Norman Gerald Daniels, III, is a state prisoner proceeding pro se and in forma
15 pauperis in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United
16 States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Eastern District of California
17 Local Rule 302.

18 On September 30, 2021, the assigned magistrate judge screened the first-amended
19 complaint and issued findings and recommendations that recommended that this action be
20 dismissed as barred by res judicata and frivolous pursuant to 28 U.S.C. § 1915(e). Doc. No. 16.
21 Following an extension of time, Plaintiff's objections were due on or before November 24, 2021.
22 Doc. No. 18. The deadline to file objections passed, and Plaintiff failed to file objections to the
23 pending findings and recommendations or otherwise communicate with the Court regarding this
24 action. However, on December 13, 2021, Plaintiff filed a motion for a thirty-day extension of
25 time to file a second amended complaint. Doc. No. 21.

26 In his motion, Plaintiff explains that due to a variety of circumstances outside of his
27 control, including the prison's lack of ADA equipment to accommodate his blindness, the
28 restrictive law library schedule, and a quarantine of his housing unit during the month of

1 November, he was unable to timely submit his second-amended complaint. Id. However,
2 Plaintiff was not granted leave to file a second-amended complaint, and the pending deadline
3 permitted only the filing of objections to the magistrate judge’s findings and recommendations.
4 As such, the Court will deny Plaintiff’s moot as moot. Plaintiff’s filing does not otherwise address
5 the substance of the findings and recommendations.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
7 de novo review of this case. Having carefully reviewed the entire file, the Court concludes that
8 the findings and recommendations are supported by the record and by proper analysis.

9
10 **ORDER**

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The motion for thirty-day extension of time to file a second-amended complaint
13 (Doc. No. 21) is DENIED as moot;
- 14 2. The findings and recommendations (Doc. No. 16) that were issued on September
15 30, 2021, are ADOPTED in full;
- 16 3. This action is DISMISSED, with prejudice, as barred by res judicata and frivolous
17 pursuant to 28 U.S.C. § 1915(e); and
- 18 4. The Clerk of the Court is directed to CLOSE this case.

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20 IT IS SO ORDERED.

21 Dated: December 17, 2021



22 SENIOR DISTRICT JUDGE