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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUAN MONTENEGRO,
Plaintiff,
v.
DAVID MOORE, *et al.*,
Defendants.

No. 1:19-cv-00430-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

(Doc. Nos. 32, 33)

Plaintiff Juan Montenegro is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. 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 January 23, 2020, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's motion for summary judgment be denied without prejudice. (Doc. No. 33.) As the magistrate judge noted, discovery only commenced in this action on December 4, 2019, and defendants have not been provided the opportunity to complete discovery and obtain information necessary to oppose plaintiff's motion. (*Id.*) Moreover, plaintiff's motion does not comply with Local Rule 260(a), as it fails to include a Statement of Undisputed Facts enumerating the evidence on which plaintiff is relying for his motion for summary judgment. (*See* Doc. No. 32.) The findings and recommendations were served on both parties and contained

1 notice that any objections thereto were to be filed within fourteen (14) days of service. (*Id.*) No
2 objections have been filed and the time to do so has now passed.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the
4 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
5 court concludes that the findings and recommendations are supported by the record and proper
6 analysis.

7 Accordingly:

- 8 1. The findings and recommendations filed on January 23, 2020 (Doc. No. 33) are
9 adopted in full;
- 10 2. Plaintiff's motion for summary judgment filed on January 21, 2020 (Doc. No. 32)
11 is denied without prejudice; and
- 12 3. The matter is referred back to the assigned magistrate judge for further
13 proceedings.

14 IT IS SO ORDERED.

15 Dated: April 21, 2020

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18 UNITED STATES DISTRICT JUDGE

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