MARK HUNT, v. D. DIAZ, et al.,

Plaintiff,

Defendants.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

Case No.: 1:19-cv-00504-DAD-SAB (PC)

ORDER VACATING FINDINGS AND

RECOMMENDATIONS ISSUED JUNE 28, 2019

[ECF No. 14]

ORDER VACATING FINDINGS AND

RECOMMENDATIONS ISSUED JUNE 28, 2019

ORDER VACATING FINDINGS AND

Plaintiff Mark Hunt is appearing 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.

Plaintiff filed the instant action in the United States District Court for the Eastern District of California, Sacramento Division on March 28, 2019. On April 19, 2019, the action was transferred to this Court.

On April 23, 2019, the Court issued an order striking Plaintiff's complaint because it was not signed under penalty of perjury, Fed. R. Civ. P. 11(a); Local Rule 131, and Plaintiff was granted thirty days to file a complaint signed under penalty of perjury. Plaintiff failed to respond to the Court's order; therefore, on June 3, 2019, the Court issued an order for Plaintiff to show cause within fourteen

days why the action should not be dismissed for failure to prosecute, namely, the failure to submit a complaint signed under penalty of perjury. Plaintiff failed to respond to the order to show cause.

Consequently, on June 28, 2019, the Court issued Findings and Recommendations to dismiss the action for failure to prosecute, and Plaintiff was advised objections were to be filed within fourteen days. On July 12, 2019, Plaintiff filed a motion for an extension of time and/or stay of the action because he was housed at the California State Mental Hospital and was litigating a criminal case in the Kings County Superior Court. On July 16, 2019, the Court granted Plaintiff thirty days to file a complaint signed under penalty of perjury, but denied his request to stay the action. Inasmuch as Plaintiff filed a complaint signed under penalty of perjury on August 5, 2019, it is HEREBY ORDERED that the Findings and Recommendations issued on June 28, 2019, are VACATED. Plaintiff is advised that the complaint will be screened pursuant to 28 U.S.C. § 1915A in due course.

IT IS SO ORDERED.

Dated: **August 27, 2019**

UNITED STATES MAGISTRATE JUDGE