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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUBEN FIGUEROA,
Plaintiff,
v.
KENNETH CLARK, et al.,
Defendants.

No. 1:19-cv-00968-ADA-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DISMISSAL OF ACTION, WITH
PREJUDICE, FOR FAILURE TO
PROSECUTE AND FAILURE TO OBEY
COURT ORDER
(ECF No. 86)

Plaintiff Ruben Figueroa (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendants Baughman, Clark, Gallagher, Alfaro, Goss, Juarez, Hence, and Llamas for failure to provide outside exercise in violation of the Eighth Amendment and against Defendants Baughman, Clark, Goss, Hence, Gallagher, Llamas, and Gamboa for violations of the Equal Protection Clause of the Fourteenth Amendment.

On December 2, 2022, Defendants filed a motion for summary judgment. (ECF No. 80.) Defendants provided notice of the requirements for opposing a motion for summary judgment to Plaintiff. (See ECF No. 80-1 (citing *Woods v. Carey*, 684 F.3d 934 (9th Cir. 2012); *Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1988); *Klinge v. Eikenberry*, 849 F.2d 409, 411–12 (9th Cir. 1988).)

On January 11, 2023, following the expiration of the deadline for Plaintiff to file his

1 opposition, the assigned Magistrate Judge ordered Plaintiff to show cause within twenty-one days
2 why this action should not be dismissed, with prejudice, for Plaintiff's failure to prosecute. (ECF
3 No. 82.) Plaintiff was provided the opportunity to comply with the Court's order by filing an
4 opposition or statement of non-opposition to the motion for summary judgment, and Plaintiff was
5 warned that failure to comply with the Court's order would result in dismissal of this matter, with
6 prejudice, for failure to prosecute. (*Id.*)

7 On January 13, 2023, Plaintiff filed a notice of change of address and a request for a 30-day
8 extension of time to file his opposition to Defendants' motion for summary judgment. (ECF No.
9 83.) The Court found good cause to grant the requested extension; discharged the order to show
10 cause; and permitted Plaintiff an additional thirty days to file his opposition. (ECF No. 85.) The
11 Court again warned Plaintiff that failure to file an opposition in compliance with the Court's order
12 would result in dismissal of this action, with prejudice, for failure to prosecute. (*Id.*) Plaintiff did
13 not file an opposition.

14 On February 27, 2023, the Magistrate Judge issued findings and recommendations
15 recommending dismissal of this action, with prejudice, for failure to prosecute and for failure to
16 obey a court order. (ECF No. 86.) Those findings and recommendations were served on the parties
17 and contained notice that any objections thereto were to be filed within fourteen days after service.
18 (*Id.* at 4.) No objections have been filed, and the deadline to do so has passed. Plaintiff has not
19 otherwise communicated with the Court regarding this action.

20 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a
21 *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that the
22 Magistrate Judge's findings and recommendations are supported by the record and by proper
23 analysis.

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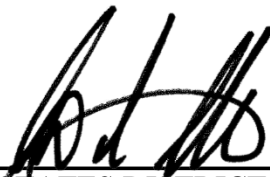
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Accordingly,

1. The findings and recommendations issued on February 27, 2023, (ECF No. 86), are adopted in full;
2. This action is dismissed, with prejudice, for failure to prosecute and failure to obey a court order; and
3. The Clerk of the Court is directed to terminate all pending motions and close this case.

IT IS SO ORDERED.

Dated: May 30, 2023



UNITED STATES DISTRICT JUDGE