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3 **UNITED STATES DISTRICT COURT**

4 EASTERN DISTRICT OF CALIFORNIA

5
6 JOSE LEAL,

7 Plaintiff,

8 v.

9
10 COMMUNITY HOSPITAL OF FRESNO,

11 Defendant.

CASE NO. 1:19-cv-01266-AWI-SKO

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION TO DISMISS WITH
PREJUDICE FOR PLAINTIFF'S FAILURE
TO COMPLY WITH THE COURT'S
ORDER AND FAILURE TO STATE A
CLAIM**

(Doc. No. 7)

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14 On September 11, 2019, Plaintiff Jose Leal, a prisoner in the custody of Wasco State Prison
15 and proceeding pro se, filed a civil rights complaint against Defendant Community Hospital of
16 Fresno, in which he seeks to proceed on a claim based on the removal of his infant daughter from
17 his custody. (Doc. No. 1.) Plaintiff also filed an application to proceed *in forma pauperis* pursuant
18 to 28 U.S.C. § 1915, which was granted on September 16, 2019. (Doc. Nos. 2 & 3.)

19 On September 24, 2019, the undersigned issued a screening order finding that Plaintiff failed
20 to state any cognizable claims and granted Plaintiff twenty-one days leave to file an amended
21 complaint curing the pleading deficiencies identified in the order. (Doc. No. 4.) Although more
22 than the allowed time passed, Plaintiff failed to file an amended complaint or otherwise respond to
23 the court's screening order.

24 On October 23, 2019, an order issued for Plaintiff to show cause ("OSC") within twenty-
25 one days why the action should not be dismissed for his failure to comply with the Court's screening
26 order and for failure to state a claim. (Doc. No. 6.) Plaintiff was warned in both the screening order
27 and the OSC that the failure to comply with the court's order would result in a recommendation to
28

1 the presiding district judge of the dismissal of this action. (*Id.* See also Doc. No. 4.) Plaintiff failed
2 to file a response to the OSC.

3 On November 22, 2019, the assigned magistrate judge issued findings and recommended
4 that the case be dismissed with prejudice for failing to comply with the court's order to show cause,
5 for failure to prosecute, and for failure to state a claim. (Doc. No. 7.) Plaintiff was granted twenty-
6 one (21) days in which to file objections to the findings and recommendation. (*Id.*) No objections
7 have been filed.

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
9 *de novo* review of the case. Having carefully reviewed the entire file, the court finds that the findings
10 and recommendation are supported by the record and proper analysis.

11 ORDER

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The findings and recommendation dated November 22, 2019 (Doc. No. 7), are
14 ADOPTED IN FULL;
15 2. This action is DISMISSED WITH PREJUDICE; and
16 3. The Clerk of Court is directed to close this case.

17
18 IT IS SO ORDERED.

19 Dated: December 27, 2019



SENIOR DISTRICT JUDGE