

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAWRENCE CHRISTOPHER SMITH,
Plaintiff,
v.
BECERRA, *et al.*,
Defendants.

No. 1:19-cv-01358-NONE-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION WITHOUT LEAVE TO AMEND
(Doc. No. 34)

Plaintiff Lawrence Christopher Smith is a state prisoner proceeding *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.

On April 21, 2020, the assigned magistrate judge issued findings and recommendations recommending dismissal of this action without leave to amend due to plaintiff’s failure to state a claim. (Doc. No. 34.) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 13.) Following the granting of an extension of time, plaintiff’s objections were due on or before June 16, 2020. (Doc. No. 36.) On July 14, 2020, plaintiff filed untimely objections, together with a document styled as a “Notice of Error with Returning of Legal Mail.” (Doc. Nos. 38, 39.)

////

1 In the notice, plaintiff explained that he completed his objections to the findings and
2 recommendations on May 25, 2020 and gave them to staff at Pelican Bay State Prison for mailing
3 on that date. (Doc. No. 38, p. 2.) Plaintiff stated that on July 6, 2020, after he was transferred to
4 California State Prison – Corcoran, the envelope containing his objections was returned to him.
5 Plaintiff has attached the envelope to his filing, pointing out that it shows a postage date stamp of
6 June 11, 2020. Plaintiff therefore requests that the court fully consider his objections, as the
7 untimely filing was due to an error that was not caused by plaintiff. (*Id.*) Having considered
8 plaintiff’s filing, the court finds it appropriate to consider his objections as having been timely
9 filed.

10 In his objections, despite being repeatedly admonished by the court as to the proper
11 standards for properly joining claims and defendants and for pleading a conspiracy, plaintiff
12 continues to argue that he should be permitted to proceed in this action alleging a vast conspiracy
13 among the named defendants, spanning many years and numerous institutions. (Doc. No. 39.)
14 Plaintiff requests that the court consolidate this case with at least six other pending actions.¹ To
15 this end, plaintiff has attached a proposed second amended complaint to his objections, in which
16 one hundred and ninety-nine (199) defendants are names, including employees of at least five
17 different CDCR institutions, as well as judicial officers, district attorneys, and public defenders
18 from at least four different county offices throughout the state of California. (*Id.* at 5–7.)

19 Plaintiff’s objections to the findings and recommendations are simply another bad faith
20 attempt on his part to bring improperly joined claims and defendants into a single action, and his
21 proposed second amended complaint again fails to provide support for the overarching conspiracy
22 plaintiff is attempting to allege. Plaintiff has deliberately and repeatedly, through several separate
23 legal actions, refused to abide by court orders setting forth the appropriate legal standards
24 governing the pleading of the claims he is apparently attempting to assert. To grant plaintiff leave
25 to amend and proceed on his proposed second amended complaint, which only compounds the

26 ¹ As discussed at length in the magistrate judge’s findings and recommendations, four of these
27 actions began as a single action that was eventually severed into four separate cases. The court
28 has repeatedly rejected plaintiff’s attempts to have those cases rejoined as a single action. (Doc.
No. 34 at 3–4.)

1 deficiencies of his original and first amended complaints, would be futile.

2 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a
3 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff's
4 objections and proposed second amended complaint, the court concludes that the magistrate
5 judge's findings and recommendations are supported by the record and by proper analysis.

6 Accordingly,

- 7 1. The findings and recommendations issued on April 21, 2020, (Doc. No. 34), are adopted
8 in full;
- 9 2. This action is dismissed, with prejudice, due to plaintiff's failure to state a claim upon
10 which relief may be granted; and
- 11 3. The Clerk of the Court is directed to assign a district judge to this case for the purpose of
12 closing the case and then to close this case.

13 IT IS SO ORDERED.

14 Dated: August 18, 2020

15 
16 _____
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28