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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BYRON PRATT,  
  
Plaintiff,  
  
v.  
  
UNITED STATES OF AMERICA,  
  
Defendant.

No. 1:19-cv-01465-DAD-SKO (PC)  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
ACTION DUE TO PLAINTIFF'S FAILURE  
TO PROSECUTE  
  
(Doc. No. 27)

Plaintiff Byron Pratt is a federal prisoner proceeding *pro se* and *in forma pauperis* in this civil action brought under the Federal Torts Claims Act. 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 November 16, 2021, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed, without prejudice, due to plaintiff's failure to prosecute. (Doc. No. 27.) Specifically, because plaintiff has failed to timely file an opposition, or a statement of non-opposition, to defendant's pending motion for summary judgment as required by the Local Rules, on August 13, 2021, the magistrate judge issue an order requiring plaintiff to show cause why this action should not be dismissed due to plaintiff's failure to prosecute. (Doc. No. 26.) Plaintiff was warned that his failure to comply with that order may result in a recommendation that this case be dismissed due to plaintiff's failure to prosecute. (*Id.* at 1.) On August 26, 2021, the service copy of the order to show cause was returned to the court

1 as “Undeliverable, RTS, Not At Institution.” Plaintiff was required by local rule to file a notice  
2 of change of address with this court by November 4, 2021, and he did not do so. To date,  
3 plaintiff has not filed an opposition or a statement of non-opposition as directed, or otherwise  
4 communicated with the court.

5 Accordingly, on November 16, 2021, the magistrate judge issued the pending findings and  
6 recommendations recommending dismissal of this action due to plaintiff’s failure to prosecute.  
7 (Doc. No. 27.) Those pending findings and recommendations were served on the parties and  
8 contained notice that any objections thereto were to be filed within fourteen (14) days after  
9 service. (*Id.* at 2.) On December 6, 2021, those findings and recommendations mailed to plaintiff  
10 was also returned to the court as “Undeliverable: Not at this Institution.” To date, no objections  
11 have been filed and the time in which to do so has now passed.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
13 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings  
14 and recommendations to be supported by the record and by proper analysis.

15 Accordingly:

- 16 1. The findings and recommendations issued on November 16, 2021 (Doc. No. 27)  
17 are adopted in full;
- 18 2. This action is dismissed, without prejudice, due to plaintiff’s failure to prosecute  
19 this action;
- 20 3. Defendant’s motion for summary judgment (Doc. No. 24) is terminated as having  
21 been rendered moot by this order; and
- 22 4. The Clerk of the Court is directed to close this case.

23 IT IS SO ORDERED.

24 Dated: December 13, 2021

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27 UNITED STATES DISTRICT JUDGE  
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