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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTOINE DESHAWN BARNES,
Plaintiff,
v.
W. YAND, et al.,
Defendants.

No. 1:20-cv-00389-DAD-SAB

AMENDED ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS AND
DISMISSING ACTION

(Doc. No. 22)

Plaintiff Antoine Deshawn Barnes is a county jail inmate proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 10, 2020, the assigned magistrate judge issued an order finding service of the complaint appropriate as to defendant W. Yand. (Doc. No. 12.) Plaintiff returned service documents which were forwarded to the United States Marshal on June 23, 2020 to effect service of process. (Doc. No. 15.) On September 9, 2020, the United States Marshal returned the summons unexecuted. (Doc. No. 18.) The magistrate judge subsequently issued an order requiring plaintiff to provide further information identifying defendant Yand so that service could be effected. (Doc. Nos. 19.) Plaintiff received an extension of time to respond, but has still filed

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1 no further information in response to that order and the time to do so, as extended, has passed.
2 (Doc. No. 20.)

3 Accordingly, on December 10, 2020, the assigned magistrate judge issued findings and
4 recommendations, recommending that this action be dismissed due to plaintiff's failure to serve
5 defendant Yand in compliance with Rule 4(m) of the Federal Rules of Civil Procedure and failure
6 to comply with a court order. (Doc. No. 22 at 6.) The findings and recommendations were
7 served on plaintiff and contained notice that objections thereto were to be filed within fourteen
8 (14) days after service. (*Id.*)¹ Plaintiff untimely filed objections on January 5, 2021. (Doc. No.
9 25.)

10 Out of an abundance of caution, the undersigned has reviewed plaintiff's untimely
11 objections. Plaintiff's objections largely do not address the magistrate judge's reasoning in
12 finding that plaintiff had failed to provide sufficient information to have the defendant served in
13 compliance with Rule 4(m), except to assert that "this court knows who this man [defendant W.
14 Yand] is who clearly violated my 4th [A]mendment rights so thr[ough] prayer I hope this court
15 can help me seek justice." (*Id.* at 7.) The remainder of plaintiff's objections for the most part
16 address the merits of his claims and alleges that his current conditions of confinement violate his
17 federal rights. (*See* Doc. No. 25.) However, plaintiff does not address his failure to comply with
18 the court's order requiring him to provide additional information so that the named defendant can
19 be served. (*See id.*)

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 this case. Having carefully reviewed the entire file, the court finds the findings
22 and recommendations to be supported by the record and by proper analysis.

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26 ¹ The court's initial order stated that no objections had been timely filed at that time. (Doc. No.
27 23 at 2.) After the court's order was docketed, plaintiff's objections to the findings and
28 recommendations were filed. (Doc. No. 25.) The court issues this amended order in order to
address plaintiff's late-filed objections.

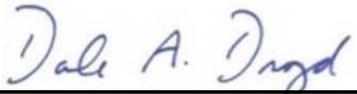
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Accordingly,

1. The findings and recommendations issued on December 10, 2020 (Doc. No. 22) are adopted in full;
2. This action is dismissed for failure to serve in compliance with Rule 4(m) of the Federal Rules of Civil Procedure and failure to comply with a court order; and
3. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: January 7, 2021


UNITED STATES DISTRICT JUDGE