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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST E. CLARK, IV,
Plaintiff,
v.
PATRICK EATON, et al.,
Defendants.

No. 1:20-cv-00874-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION DUE TO PLAINTIFF’S FAILURE
TO PROSECUTE AND OBEY A COURT
ORDER

(Doc. No. 15)

Plaintiff Ernest E. Clark is proceeding *pro se* and *in forma pauperis* in this civil rights action brought 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 August 13, 2020, the assigned magistrate judge screened plaintiff’s complaint in this action and found that he had stated cognizable Eighth Amendment conditions-of-confinement claims against defendants Eaton, Gates, and Doe 2, but had failed to state any other cognizable claims against defendants Eaton, Gates, and Doe 2, or any other named defendants. (Doc. No. 11 at 12–13.) Plaintiff was given thirty (30) days from the date of service of that screening order to either file a first amended complaint or notify the court of his decision to proceed only on the claims found by the screening order to be cognizable against defendants Eaton, Gates, and Doe 2. (*Id.* at 13–14.) The court served the screening order on plaintiff by mail on August 13, 2020.

1 Despite requesting and receiving an extension of time in which to do so (Doc. Nos. 12, 13),
2 plaintiff did not file a first amended complaint, nor did he notify the court of his decision to
3 proceed only on the claims found to be cognizable against defendants Eaton, Gates, and Doe 2.

4 Accordingly, on November 5, 2020, the magistrate judge issued findings and
5 recommendations recommending that this action be dismissed due to plaintiff's failure to obey a
6 court order and failure to prosecute this case. (Doc. No. 15.) Those findings and
7 recommendations were served on plaintiff by mail on November 5, 2020 and contained notice
8 that any objections thereto were to be filed within fourteen (14) days of service of the findings
9 and recommendations. (*Id.* at 3–4.) To date, no objections to the pending findings and
10 recommendations have been filed, and the time in which to do so has now passed.

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

14 Accordingly,

- 15 1. The findings and recommendations issued on November 5, 2020 (Doc. No. 15) are
16 adopted in full;
- 17 2. This action is dismissed due to plaintiff's failure to obey a court order and failure
18 to prosecute; and
- 19 3. The Clerk of the Court is directed to close this case.

20 IT IS SO ORDERED.

21 Dated: December 8, 2020

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23 _____
24 UNITED STATES DISTRICT JUDGE
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