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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH CLARENCE EASTMAN,

Plaintiff,

v.

TUOLUMNE COUNTY JAIL, et al.,

Defendants.

No. 1:20-cv-01303-NONE-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
ACTION FOR FAILURE TO STATE A
CLAIM, AND DIRECTING CLERK OF
COURT TO ASSIGN DISTRICT JUDGE
AND CLOSE THE CASE

(Doc. No. 22)

Plaintiff Joseph Clarence Eastman 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 February 12, 2021, the assigned magistrate judge screened the second amended complaint and issued findings and recommendations recommending that this action be dismissed, without prejudice, based on plaintiff's failure to comply with Federal Rule of Civil Procedure 8 and failure to state a cognizable claim upon which relief may be granted. (Doc. No. 22.) The findings and recommendations were served on plaintiff and contained notice that plaintiff's objections, if any, were to be filed within fourteen (14) days of the date of service. (*Id.* at 12.)

Although the deadline to file objections had passed, on March 18, 2021, plaintiff filed objections to the findings and recommendations, asserting that he would like to proceed upon the

1 first amended complaint that was not screened rather than the second amended complaint that was
2 screened by the magistrate judge. (Doc. No. 23.) Plaintiff does not otherwise address the merits
3 of the pending findings and recommendations. (*See id.*)

4 The court finds plaintiff's request to be unwarranted. Having reviewed both the first and
5 second amended complaints, the court finds the allegations therein to be largely the same, and
6 both fail to state a cognizable claim for relief. It would be an unnecessary expenditure of judicial
7 resources for the court to vacate the pending findings and recommendations merely to screen
8 plaintiff's first amended complaint. As plaintiff has not otherwise addressed the merits of the
9 magistrate judge's screening order, and in any case has filed untimely objections, the court finds
10 that plaintiff has failed to present any basis upon which the findings and recommendations should
11 be rejected.

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, including plaintiff's
14 objections, the court concludes that the magistrate judge's findings and recommendations are
15 supported by the record and by proper analysis.

16 Accordingly,

- 17 1. The findings and recommendations issued on February 12, 2021, (Doc. No. 22), are
18 adopted in full;
- 19 2. This action is dismissed for failure to comply with Federal Rule of Civil Procedure 8 and
20 failure to state a cognizable claim upon which relief may be granted; and
- 21 3. The Clerk of the Court is directed to to assign a district judge to this case for the purpose
22 of closing the case and then to close the case.

23 IT IS SO ORDERED.

24 Dated: April 9, 2021

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26 _____
27 UNITED STATES DISTRICT JUDGE
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