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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE L. HERNANDEZ, JR.,

Plaintiff,

v.

KELLY, et al.,

Defendants.

No. 1:21-cv-00130-DAD-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION

(Doc. No. 13)

Plaintiff Jose L. Hernandez, Jr., a former state prisoner, 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 February 1, 2022, the assigned magistrate judge screened plaintiff’s complaint pursuant to 28 U.S.C. § 1915A and determined that plaintiff had failed to state any cognizable claims. (Doc. No. 10.) Plaintiff was granted leave to file a first amended complaint attempting to cure the deficiencies identified by the magistrate judge within twenty-one (21) days after service of that screening order. (*Id.* at 5.) Plaintiff was warned that his failure to file a first amended complaint, or a notice of voluntary dismissal of this action, would result in a recommendation that this action be dismissed. (*Id.*) To date, plaintiff has not filed an amended complaint or a notice of voluntary dismissal, and the time in which to do so has passed.

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1 On March 15, 2022, the magistrate judge issued an order directing plaintiff to show cause
2 within twenty-one (21) days from that date of that order why this action should not be dismissed
3 due to plaintiff's failure to comply with the court's order of February 1, 2022. (Doc. No. 11.)
4 Plaintiff was warned that his failure to comply with the order to show cause would result in a
5 recommendation that this action be dismissed. (*Id.* at 2.) Plaintiff did not respond to the order to
6 show cause or otherwise communicate with the court.

7 Accordingly, on April 18, 2022, the magistrate judge issued findings and
8 recommendations recommending that this action be dismissed due to plaintiff's failure to obey
9 court orders. (Doc. No. 13.) The pending findings and recommendations were served on plaintiff
10 and contained notice that any objections thereto were to be filed within fourteen (14) days after
11 service. (*Id.* at 4.) To date, no objections to the findings and recommendations have been filed,
12 and the time in which to do so has now passed.

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

16 Accordingly,

- 17 1. The findings and recommendations issued on April 18, 2022 (Doc No. 13) are
18 adopted in full;
- 19 2. This action is dismissed, without prejudice, due to plaintiff's failure to obey court
20 orders; and
- 21 3. The Clerk of the Court is directed to close this case.

22 IT IS SO ORDERED.

23 Dated: May 9, 2022

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26 UNITED STATES DISTRICT JUDGE
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