

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN PAUL FRANK SCHOWACHERT,
Plaintiff,
v.
BILL POLLEY and ALL OFFICERS ON
DUTY ON JANUARY 13, 2017,
Defendant.

No. 1:21-cv-01107-KES-HBK (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
Doc. 12

Plaintiff John Paul Frank Schowachert filed this prisoner civil rights action against Defendant Bill Polley and All officers on Duty on January 13, 2017, under 42 U.S.C. § 1983. Doc. 1. 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 September 19, 2023, the magistrate judge issued findings and recommendations recommending the district court dismiss Plaintiff's complaint without prejudice for failure to prosecute and failure to comply with court orders. Doc. 12. The findings and recommendations were served on Plaintiff and contained notice that any objections were to be filed within fourteen days of service. *Id.* at 5. On December 20, 2023, Plaintiff filed an untimely objection stating a prisoner transfer interfered with his ability to respond to the dismissal. *See* Doc. 15. On

1 December 22, 2023, the magistrate judge interpreted Plaintiff's untimely objection as a motion
2 for an extension of time to respond to the August 4, 2023, Order to Show Cause ("OSC") that
3 became the basis of the recommendation for dismissal, and granted an extension. Doc. 16 at 1.
4 Plaintiff was notified in the order granting an extension that if Plaintiff failed to respond to the
5 OSC by January 22, 2024, the findings and recommendations would be considered as submitted
6 for consideration without objection. *Id.* at 2. Plaintiff has failed to file any further response and
7 the time to do so has passed. *See* docket.

8 In accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a de novo review of
9 this case. Having carefully reviewed the entire file, the Court finds the Findings and
10 Recommendations are supported by the record and proper analysis.

11 Accordingly, it is ORDERED:

- 12 1. The Findings and Recommendations issued September 19, 2023, Doc. 12, are
13 ADOPTED IN FULL.
- 14 2. This action is DISMISSED without prejudice.
- 15 3. The Clerk of Court shall terminate any pending motions and close this case.

16
17
18 IT IS SO ORDERED.

19 Dated: April 9, 2024

20
21
22
23
24
25
26
27
28


UNITED STATES DISTRICT JUDGE