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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOVANNY HERNANDEZ,  
Plaintiff,  
v.  
SINGLETON, et al.,  
Defendants.

Case No. 1:21-cv-01148-JLT-BAK (HBK) (PC)  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO DISMISS  
ACTION FOR A FAILURE TO OBEY  
COURT ORDERS AND FOR A FAILURE  
TO PROSECUTE**  
(Doc. 23)

The assigned Magistrate Judge reviewed the allegations of the complaint and found Plaintiff failed “to state a claim on which relief can be granted.” (Doc. 12 at 4.) The Magistrate Judge directed Plaintiff to file an amended complaint or a notice of voluntary dismissal within 21 days of the date of service of the order. (*Id.*) The Court granted Plaintiff two extensions of time to file an amended complaint. (*See* Docs. 18, 20.) After Plaintiff failed to file an amended complaint, the Magistrate Judge ordered Plaintiff to show cause why the action should not be dismissed for failure to prosecute and obey the Court’s order. (Doc. 21.) Plaintiff did not respond to the Court’s order.

The Magistrate Judge issued Findings and Recommendations that the action be dismissed without prejudice for Plaintiff’s failure to prosecute and to obey the Court’s orders. (Doc. 23.) In addition, the Magistrate Judge indicated: “Because the dismissal for failure to prosecute and obey a court order is after the Court screened the complaint and directed Plaintiff to file an amended

1 complaint, this dismissal shall qualify as a strike for purposes of 28 U.S.C. § 1915.” (*Id.* at 5,  
2 citing *Harris v. Mangum*, 863 F.3d 1133, 1143 (9th Cir. 2017) [emphasis in original].) The Court  
3 granted Plaintiff 14 days within which to file objections and advised that “the failure to file  
4 objections within the specified time may result in waiver of his rights on appeal.” (*Id.*, citing  
5 *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Plaintiff did not file objections, and  
6 the time to do so has now passed.

7 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review. Having  
8 carefully reviewed the entire matter, the Court concludes the Findings and Recommendations are  
9 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 10 1. The Findings and Recommendations issued on May 16, 2022 (Doc. 23) are  
11 adopted in full.
- 12 2. The action is **DISMISSED** without prejudice.
- 13 3. This dismissal **SHALL** qualify as a strike under 28 U.S.C. § 1915.
- 14 4. The Clerk of the Court is to close this case.

15 IT IS SO ORDERED.

16 Dated: June 7, 2022

17   
18 UNITED STATES DISTRICT JUDGE