## 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ROBERT HOLMES, No. 1:21-cv-01367-DAD-BAM (PC) 12 Plaintiff. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS 13 v. 14 PEREZ, et al., (Doc. No. 17) 15 Defendants. 16 17 Plaintiff Robert Holmes is a former state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate 18 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 19 On January 28, 2022, the assigned magistrate judge issued findings and recommendations, 20 21 recommending that this action proceed only on plaintiff's excessive force in violation of the 22 Eighth Amendment claims against defendants Perez and Rocha and that all other claims and defendants be dismissed due to plaintiff's failure to state claims upon which relief may be 23 24 granted. (Doc. No. 14.) Plaintiff was directed to file any objections within fourteen (14) days of service of the findings and recommendations. (*Id.* at 9.) 25 26 Plaintiff filed a notice of change of address on January 31, 2022. (Doc. No. 15.) The 27 pending findings and recommendations were re-served on plaintiff at his new address of record. 28 However, on February 11, 2022, the findings and recommendations that were served on plaintiff

at his new address were returned as "Undeliverable, Attempted-Not Known, Unable to Forward." Plaintiff has not responded to the findings and recommendations, filed a new notice of change of address, or otherwise communicated with the court.

Therefore, on May 2, 2022, the assigned magistrate judge issued findings and recommendations, recommending that this action be dismissed, without prejudice, due to plaintiff's failure to prosecute. (Doc. No. 17.) Those findings and recommendations were again served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 3.) No objections have been filed with the court, and the deadline to do so has now passed.

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

## Accordingly,

- 1. The findings and recommendations issued on May 2, 2022 (Doc. No. 17) are adopted;
- 2. This action is dismissed, without prejudice, due to plaintiff's failure to prosecute; and
- 3. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: **August 1, 2022** 

INITED STATES DISTRICT HIDGE