

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ADAN HERNANDEZ.

Plaintiff,

Y.

M. WASHBURN, et al.,

## Defendants.

No. 1:22-cv-00092-JLT-SAB

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS IN PART AND  
DISMISSING ACTION FOR FAILURE TO  
COMPLY WITH COURT ORDERS AND  
FAILUER TO PROSECUTE

(Doc. 19)

The Magistrate Judge screened Plaintiff's original complaint, found it failed to state a claim, and granted Plaintiff leave to file an amended complaint within 30 days. (Docs. 1, 7.) The Magistrate Judge then screened the first amended complaint and granted leave to file an amended complaint within 30 days. (Doc. 9.) Later, the Magistrate Judge issued a screening order finding that Plaintiff had failed to state any cognizable claims in his complaint and granted Plaintiff 30 days in which to file a second amended complaint. (Doc. 15.) After more than 30 days passed, the Magistrate Judge issued findings and recommendations recommending the action be dismissed for failure to state a claim and for the Plaintiff's failure to prosecute the action. (Doc. 16.)

Plaintiff filed objections to the findings and recommendations and declared that he never personally received the screening order related to the second amended complaint. (Doc. 17 at 2.) The Magistrate Judge vacated the findings and recommendations and granted Plaintiff's motion

1 for a 60-day extension of time to file a third amended complaint. (Doc. 18.) The Magistrate  
2 Judge also directed that a copy of the Court's screening order be served on Plaintiff. (*Id.*)

3 More than 60 days passed, and Plaintiff did not file a third amended complaint. Once  
4 again, the Magistrate Judge issued findings and recommendations recommending that Plaintiff's  
5 second amended complaint be dismissed for failure to state a cognizable claim, and for failure to  
6 prosecute the action and comply with the Court's orders. (Doc. 19.) The Court served the  
7 findings and recommendations on Plaintiff. It advised him that any objections thereto were to be  
8 filed within 14 days after service. (*Id.* at 15.) Plaintiff has not filed objections, and the time to do  
9 so has passed.

10 According to 28 U.S.C. § 636 (b)(1)(c), this court has conducted a *de novo* review of the  
11 case. Having carefully reviewed the entire file, the Court adopts the findings and  
12 recommendations insofar as they recommend dismissal for failure to prosecute. The Court  
13 declines to address the alternative ground for dismissal. Thus, the Court **ORDERS**:

- 14 1. The findings and recommendations issued on October 19, 2022 (Doc. 19) are  
15 **ADOPTED IN PART** as set forth above.
- 16 2. This action is **DISMISSED** for failure to comply with court orders and failure to  
17 prosecute the action.
- 18 3. The Clerk of the court is directed to close this case.

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20 IT IS SO ORDERED.

21 Dated: November 17, 2022

  
UNITED STATES DISTRICT JUDGE

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