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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IRA PERNELL CALLAHAN,
Plaintiff,
v.
UNKNOWN et al.,
Defendants.

Case No.: 1:22-cv-221 JLT BAM

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THE ACTION WITH PREJUDICE FOR
FAILURE TO STATE A CLAIM, FAILURE TO
OBEY A COURT ORDER, AND FAILURE TO
PROSECUTE

(Doc. 13)

The assigned magistrate judge issued a screening order in this case noting, that though Plaintiff complains of safety, policies, and pandemic health protocols at North Kern State Prison, “Plaintiff does not name any defendants. The complaint is in letter form and addressed to ‘To Whom it May Concern’ and appears to be on behalf of all inmates.” (Doc. 11 at 2.) The magistrate judge determined Plaintiff failed “to comply with Federal Rules of Civil Procedure 8 and 10 and fails to state a cognizable claim under 42 U.S.C. § 1983.” (*Id.* at 3.) Therefore, the magistrate judge determined dismissal with leave to amend was appropriate. (*Id.*)

The magistrate judge provided the applicable legal standards to plead claims under Section 1983, supervisor liability, deliberate indifference to conditions of confinement, and state law claims. (Doc. 11 at 4-11.) The order allowed Plaintiff to file an amended complaint within thirty days or file a notice of voluntary dismissal. (*Id.* at 12.) The magistrate judge also informed Plaintiff that failure to file an amended complaint would result in a recommendation of “dismissal

1 of this action, with prejudice, for failure to obey a court order and for failure to state a claim.”
2 (*Id.* at 12, emphasis omitted.) Plaintiff did not file an amended complaint or otherwise respond to
3 the Court’s order.

4 The magistrate judge issued Findings and Recommendations. (Doc. 13.) The magistrate
5 judge reiterated that Plaintiff did not name any defendants, failed to comply with Rules 8 and 10
6 of the Federal Rules of Civil Procedure, and did not state a cognizable claim in the complaint
7 filed. (*Id.* at 2-5.) Furthermore, the magistrate judge found Plaintiff failed to prosecute the action
8 and failed to comply with the Court’s prior order. (*Id.* at 12-13.) Consequently, the magistrate
9 judge recommended the action be dismissed with prejudice. (*Id.* at 14.)

10 The Court granted Plaintiff 14 days to file objections to the Findings and
11 Recommendations. (Doc. 13 at 14.) The Court advised Plaintiff “that failure to file objections
12 within the specified time may result in the waiver of the ‘right to challenge the magistrate’s
13 factual findings’ on appeal.” (*Id.*, quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir.
14 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff has not filed objections,
15 and the deadline to do so has now passed.

16 According to 28 U.S.C. § 636 (b)(1)(C), and *Britt v. Simi Valley United School Dist.*, 708
17 F.2d 452, 454 (9th Cir. 1983) this Court conducted a *de novo* review of the case. Having carefully
18 reviewed the entire matter, the Court concludes the Findings and Recommendations are supported
19 by the record and by proper analysis. Thus, the Court **ORDERS**:

- 20 1. The findings and recommendations issued on April 25, 2022 (Doc. 13), are
21 adopted in full.
- 22 2. This action is dismissed with prejudice.
- 23 3. The Clerk of Court is directed to close this case.

24
25 IT IS SO ORDERED.

26 Dated: May 31, 2022


UNITED STATES DISTRICT JUDGE