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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JARED ANDREW MARTIN,

12 Plaintiff,

13 vs.

14 BONILLA, et al.,

15 Defendants.  
16  
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**1:22-cv-00810-JLT-GSA-PC**

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS CASE  
BE DISMISSED, WITHOUT  
PREJUDICE, FOR PLAINTIFF'S  
FAILURE TO PROSECUTE**

**OBJECTIONS, IF ANY, DUE ON OR  
BEFORE JULY 20, 2023**

19 **I. BACKGROUND**

20 Jared Andrew Martin ("Plaintiff") is a Madera County Jail inmate proceeding *pro se* and  
21 *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the  
22 Complaint commencing this action on July 1, 2022. (ECF No. 1.) The Complaint awaits the  
23 court's requisite screening under 28 U.S.C. § 1915.

24 **II. FINDINGS**

25 On April 11, 2023, the court issued an order ("Order") reassigning this case from United  
26 States District Judge Anthony W. Ishii to United States District Judge Jennifer L. Thurston. (ECF  
27 No. 10.) The Order was served upon Plaintiff at his last known address at the Madera County  
28 Jail, 195 Tozer St., Madera, California 93638. (Id., notice of conventional service.) On April

1 17, 2023, the United States Postal Service returned the Order as undeliverable. (Court Docket.)  
2 A notation on the envelope indicated that the mail was “Returned as Undeliverable, Not in  
3 Custody.” (Id.)

4 Plaintiff has not notified the court of any change in his address. Absent such notice  
5 service at a party’s prior address is fully effective. Local Rule 182(f). Pursuant to Local Rule  
6 183(b), a party appearing *in propria persona* is required to keep the court apprised of his or her  
7 current address at all times. Local Rule 183(b) provides:

8 “A party appearing *in propria persona* shall keep the Court and  
9 opposing parties advised as to his or her current address. If mail  
10 directed to a plaintiff *in propria persona* by the Clerk is returned  
11 by the U.S. Postal Service, and if such plaintiff fails to notify the  
12 Court and opposing parties within sixty-three (63) days thereafter  
13 of a current address, the Court may dismiss the action without  
14 prejudice for failure to prosecute.”

15 In this case, more than sixty-three days have passed since Plaintiff’s mail was returned to  
16 the court and Plaintiff has not notified the court of a current address.

17 In determining whether to dismiss an action for lack of prosecution, the court must  
18 consider several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the  
19 court’s need to manage its docket; (3) the risk of prejudice to the respondents; (4) the public  
20 policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
21 alternatives. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986); Omstead v. Dell, 594  
22 F.3d 1081, 1084 (9th Cir. 2010). The court finds that the public’s interest in expeditiously  
23 resolving this litigation and the court’s interest in managing the docket weigh in favor of  
24 dismissal, as this case has been pending since July 1, 2022. The court cannot hold this case in  
25 abeyance indefinitely based on Plaintiff’s failure to notify the court of his address. The third  
26 factor, risk of prejudice to respondents, also weighs in favor of dismissal, since a presumption of  
27 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v.  
28 Air West, 542 F.2d 522, 524 (9th Cir. 1976); In re Phenylpropanolamine (PPA) Products Liability  
Litigation, 460 F.3d 1217, 1228-29 (9th Cir. 2006). The fourth factor, public policy favoring  
disposition of cases on their merits, is greatly outweighed by the factors in favor of dismissal  
discussed herein. Finally, given the court’s inability to communicate with Plaintiff based on

1 Plaintiff's failure to keep the court apprised of his current address, no lesser sanction than  
2 dismissal of the case is feasible. However, inasmuch as the dismissal being considered in this  
3 case is without prejudice, the court is stopping short of issuing the harshest possible sanction of  
4 dismissal with prejudice.

5 Based on this analysis, the court finds that this case should be dismissed, without  
6 prejudice, for Plaintiff's failure to prosecute.

7 **III. RECOMMENDATIONS**

8 Based on the foregoing, the court **HEREBY RECOMMENDS** that:

- 9 1. This case be **DISMISSED** without prejudice, based on Plaintiff's failure to  
10 prosecute; and  
11 2. The Clerk of Court be directed to close this case.

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **On or before**  
14 **July 20, 2023**, Plaintiff may file written objections with the court. Such a document should be  
15 captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is  
16 advised that failure to file objections within the specified time may waive the right to appeal the  
17 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18  
19 IT IS SO ORDERED.

20 Dated: June 29, 2023

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE