

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RUBEN BARRIENTOS, JR.,)	Case No.: 1:23-cv-1432 JLT SAB
)	
Plaintiff,)	ORDER ADOPTING IN FULL THE FINDINGS
)	AND RECOMMENDATIONS DENYING
v.)	DEFENDANT’S MOTION TO CERTIFY
)	EMPLOYMENT UNDER THE FEDERAL TORT
DALE ALLAN WALKER,)	CLAIMS ACT AND REMANDING ACTION TO
)	TULARE COUNTY SUPERIOR COURT
Defendant.)	
)	(Docs. 12 and 20)
)	

Ruben Barrientos, Jr. filed the instant action against Dale Allen Walker in Tulare County Superior Court. (Doc. 1-1.) Walker alleges he was acting within the course and scope of his employment with the Tule River Indian Tribe while carrying out a self-determination contract pursuant to the Indian Self-Determination and Education Assistance Act (“ISDEAA”) at the time of the vehicle collision that forms the basis of the complaint. Walker requests the Court “find and certify that he was acting within the scope of his employment” under the Federal Tort Claims Act, substitute the United States as the defendant in this action, and dismiss Walker as a defendant from the action. (Doc. 12.)

The assigned magistrate judge found Walker failed to establish he was a covered employee under a self-determination contract as defined under the ISDEAA, and recommended the motion to certify employment, substitute the United States as a party defendant, and dismiss Dale Allen Walker be denied. In addition, the magistrate judge recommended that the action be remanded to the Tulare County Superior Court pursuant to 28 U.S.C. § 2679(d)(3). (See Doc. 20 at 8-23.)

1 The Court served the Findings and Recommendations on the parties and notified them that any
2 objections were due within 14 days. (Doc. 20 at 24.) The Court advised the parties the “failure to file
3 objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson*
4 *v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) The parties and the Government did not file any
5 objections, and the time to do so has passed.

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

- 9 1. The Findings and Recommendations dated (Doc. 20) are **ADOPTED** in full.
- 10 2. Dale Allen Walker’s motion to certify employment, substitute the United States as a
11 party defendant, and dismiss Dale Allen Walker as a defendant (Doc. 12) is **DENIED**.
- 12 3. The action is **REMANDED** to Tulare County Superior Court pursuant to 28 U.S.C. §
13 2679(d)(3).
- 14 4. The Clerk of Court is directed to close this case.

15
16 IT IS SO ORDERED.

17 Dated: March 27, 2024


UNITED STATES DISTRICT JUDGE