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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THEODORE GABALES,

Plaintiff,

CIV. NO. S-09-0373 MCE GGH PS

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

ORDER

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On January 21, 2010, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Plaintiff filed objections on February 8, 2010, and defendants filed a reply on February 19, 2010. They were considered by the district judge.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the motions on the applicable law. See Orand v.

1 United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
2 reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.
3 1983).

4 The court has reviewed the applicable legal standards and, good cause appearing,
5 concludes that it is appropriate to adopt the Proposed Findings and Recommendations in full.
6 Plaintiff has been given multiple opportunities to prosecute his case, but has failed to do so. This
7 action was filed on February 9, 2009. Plaintiff first failed to file an opposition to defendants'
8 motion to dismiss. Upon findings and recommendations recommending dismissal for the failure,
9 plaintiff filed a statement relating his problems effectuating service on some defendants. The
10 magistrate judge vacated the findings and recommendations as to certain defendants in order to
11 permit plaintiff to serve process on those defendants. Plaintiff failed to file a declaration
12 regarding service in accordance with that June 24, 2009 order, requiring the court to issue an
13 order to show cause. In response to other motions to dismiss, plaintiff requested an extension of
14 time to file an amended complaint. After hearing on those motions to dismiss, the magistrate
15 judge vacated the motions on November 3, 2009, and permitted plaintiff to file an amended
16 complaint. Plaintiff was warned that failure to file an amended complaint would result in a
17 recommendation of dismissal. When plaintiff did not file an amended complaint, the magistrate
18 judge recommended dismissal on January 21, 2010. Based on the record before the undersigned,
19 plaintiff has not shown adequate excuse to prolong this case in light of the prejudice to
20 defendants.

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Accordingly, IT IS ORDERED that:

1. The Proposed Findings and Recommendations filed January 21, 2010, are ADOPTED; and
2. This action is dismissed with prejudice.

Dated: April 20, 2010



MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE