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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NATE WHITE,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:13-cv-0626-WBS-KJN

ORDER

This action was initially assigned to the undersigned pursuant to E.D. Cal. L.R. 302(c)(15). However, on January 28, 2014, the undersigned directed that a United States District Judge be randomly assigned to the action in light of the issuance of findings and recommendations for dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b), and because plaintiff had not at that time consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 21.) Subsequently, amended findings and recommendations for dismissal pursuant to Federal Rule of Civil Procedure 41(b) were issued on March 17, 2014, and remain pending. (ECF No. 26.)

However, on March 24, 2014, plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 27.) As such, assignment to a United States District Judge is no longer necessary. Therefore, the court directs the Clerk of Court to vacate the assignment of the action to a United States District Judge.

1 Additionally, on March 28, 2014, in light of plaintiff's representation that plaintiff's
2 counsel (James Joseph Lynch) "has vacated this case due to his sudden illness and relocating to
3 the Philippines," the court granted plaintiff's request for an extension of time to obtain new
4 counsel and file objections to the pending amended findings and recommendations. (ECF Nos.
5 28, 29.) In that order, the court directed as follows:

6 No later than May 1, 2014, Mr. Lynch shall file a substitution of
7 counsel, signed by Mr. Lynch, plaintiff himself, and any new
8 counsel (if applicable), indicating that Mr. Lynch's representation
9 of plaintiff has been terminated, and that plaintiff is either
10 proceeding without counsel or will be represented by a specified
11 new attorney. If plaintiff retains a new attorney, plaintiff's new
12 counsel shall appear and file any objections to the findings and
recommendations no later than May 1, 2014. Alternatively, if
plaintiff is unable to retain counsel, plaintiff himself shall file any
objections to the findings and recommendations no later than May
1, 2014. No further extensions of time will be granted, absent
extraordinary circumstances, which would not include plaintiff's
inability to obtain a new attorney.

13 (ECF No. 29 at 2) (bullet point numbering omitted). To date, no objections to the amended
14 findings and recommendations have been filed by Mr. Lynch, any new counsel, or plaintiff
15 himself. However, on April 28, 2014, plaintiff filed a request to proceed without counsel in this
16 action, as well as a request for an expedited status conference. (ECF No. 31.)

17 The court grants plaintiff's request to proceed without counsel. Furthermore, because
18 most of the fault with respect to how this action was handled lies with Mr. Lynch,¹ the court finds
19 it appropriate to grant plaintiff, now acting *pro se*, **a brief, final opportunity** to complete service
20 of process in this action. The court stays the amended findings and recommendations during this
21 additional period of time granted to complete service of process. That said, the court emphasizes
22 that no further extensions of time will be given, absent extraordinary circumstances, which would
23 not include plaintiff's *pro se* status. Given the protracted history of this case, the action must now
24 either promptly move forward or be dismissed.

25 ////

26 _____
27 ¹ As outlined in the amended findings and recommendations, most of Mr. Lynch's conduct at
28 issue occurred long before his alleged sudden illness and relocation to the Philippines. (See ECF
No. 26.)

1 Finally, in light of the above, the court finds it unnecessary to schedule a status conference
2 at this juncture. Consequently, the court denies plaintiff's request to set a status conference.

3 Accordingly, for the reasons outlined above, IT IS HEREBY ORDERED that:

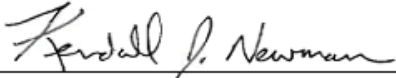
- 4 1. The Clerk of Court shall vacate the assignment of this action to a United States
5 District Judge. Henceforth the caption on documents filed in this action shall be No.
6 2:13-cv-0626 KJN.
- 7 2. Plaintiff's request to proceed without counsel (ECF No. 31) is granted. The Clerk of
8 Court shall terminate Mr. Lynch as counsel for plaintiff and reflect plaintiff's own
9 address on the docket as 816 H Street, Suite 257, Sacramento, CA 95814.
- 10 3. Plaintiff's request to schedule a status conference is denied without prejudice.
- 11 4. The amended findings and recommendations (ECF No. 26) are stayed.
- 12 5. ***Within fourteen (14) days of this order***, plaintiff shall both (a) complete service of
13 process on the Commissioner of Social Security in accordance with the Federal Rules
14 of Civil Procedure, as outlined in detail in the court's January 8, 2014 order (see ECF
15 No. 16), ***and*** (b) file a declaration under penalty of perjury that demonstrates that such
16 service was properly accomplished. ***No further extensions of time will be granted,***
17 ***absent extraordinary circumstances, which would not include plaintiff's pro se***
18 ***status.***
- 19 6. Alternatively, if plaintiff no longer wishes to pursue the action, he may instead file a
20 request for voluntary dismissal of the action without prejudice pursuant to Federal
21 Rule of Civil Procedure 41(a)(1)(A)(i) within fourteen (14) days of this order.
- 22 7. Failure to strictly and fully comply with the terms and deadlines of this order will
23 result in adoption of the amended findings and recommendations and dismissal of the
24 action pursuant to Federal Rule of Civil Procedure 41(b).
- 25 8. Along with a copy of this order, the Clerk of Court shall promptly serve (i) a copy of
26 the complaint, summons, civil cover sheet, scheduling order, and any other process
27 documents in this matter; (ii) a copy of this court's January 8, 2014 order (ECF No.
28 16); and (iii) a copy of the amended findings and recommendations (ECF No. 26) on

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plaintiff at 816 H Street, Suite 257, Sacramento, CA 95814.

IT IS SO ORDERED.

Dated: May 8, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE