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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
DONALD M. WANLAND, JR.,  
Defendant.

No. 2:13-cv-2343-LKK-KJN-PS

ORDER

On June 6, 2014, the magistrate judge filed findings and recommendations (ECF. No. 22) recommending that defendant’s motion to dismiss or stay this action be denied. The findings and recommendations were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. The first copy of the findings and recommendations served on defendant was returned undelivered on June 13, 2014. On June 16, 2014, counsel for plaintiff United States of America filed a notice of change of address informing the court of defendant’s new place of incarceration. Although defendant states that he has been transferred three times during the course of this action, defendant has never filed a notice of change of address in this action. Cf. Local Rule 182(f). On June 16, 2014, the Clerk of the Court reserved the findings and recommendations on plaintiff at the address provided by plaintiff. On June 27, 2014, defendant filed objections to the proposed findings and


1 recommendations (ECF. No. 25), which have been considered by the court.<sup>1</sup> On July 14, 2014,  
2 plaintiff filed a reply to defendant's objections.

3 This court reviews de novo those portions of the proposed findings of fact to which an  
4 objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore  
5 Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981); see also Dawson v. Marshall, 561 F.3d  
6 930, 932 (9th Cir. 2009). As to any portion of the proposed findings of fact to which no objection  
7 has been made, the court assumes its correctness and decides the matters on the applicable law.  
8 See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's  
9 conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d  
10 452, 454 (9th Cir. 1983).

11 The court has reviewed the applicable legal standards and, good cause appearing,  
12 concludes that it is appropriate to adopt the proposed findings and recommendations in full.  
13 Accordingly, IT IS ORDERED that:

- 14 1. The Proposed Findings and Recommendations filed June 6, 2014 (ECF No. 22) are  
15 ADOPTED;
- 16 2. Defendant's motion to dismiss or stay the action (ECF No. 17) is denied; and
- 17 3. Defendant shall file an answer to the United States' complaint within 21 days from the  
18 filing of this order.

19 DATED: August 6, 2014.

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22 LAWRENCE K. KARLTON  
23 SENIOR JUDGE  
24 UNITED STATES DISTRICT COURT

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26 <sup>1</sup> Defendant alleges that he received neither the minute order issued by the magistrate judge  
27 setting a briefing schedule on the motion to dismiss or stay the action nor the United States'  
28 opposition to the motion, and thus did not file a reply to the United States' opposition.  
However, the court has fully considered all of defendant's objections, which address the merits of  
his motion and the magistrate judge's findings with respect to the motion. As such, the court  
concludes that defendant has had an adequate opportunity to present his arguments to the court.