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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VALENTINA S. MAXWELL,
Plaintiff,
v.
ERIC H. HOLDER, JR., et al.,
Defendants.

No. 2:14-cv-02772 TLN AC (PS)

FINDINGS AND RECOMMENDATIONS

This case is before the court on remand from the U.S. Court of Appeals for the Ninth Circuit. Plaintiff is proceeding pro se, and the action was accordingly referred to the undersigned for pre-trial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21).

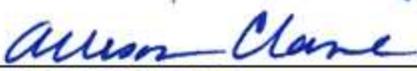
This is an immigration case in which plaintiff alleges delay in the adjudication of her naturalization application under 8 U.S.C. § 1447(b). ECF No. 1 at 1. On March 2, 2015, defendants brought a motion to dismiss on three grounds: (1) lack of jurisdiction; (2) mootness in light of pending removal proceedings; and (3) failure to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(6). ECF No. 17 at 3-12. On May 15, 2015, the undersigned issued Findings and Recommendations disagreeing with defendants as to the jurisdiction and mootness issues, but recommending dismissal for failure to state a claim. ECF No. 32. The district judge adopted the Findings and Recommendations in full. ECF No. 44.

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1 On June 15, 2018, the Ninth Circuit issued a memorandum decision reversing this court's
2 dismissal under Rule 12(b)(6). ECF No. 50. The case was remanded for further proceedings. Id.
3 In light of the Ninth Circuit's mandate regarding the 12(b)(6) issue, and this court's previous
4 determination that it has jurisdiction and that the case is not moot (or was not moot at the time the
5 motion was made), the defendant's 2015 motion to dismiss must now be DENIED. Therefore, IT
6 IS HEREBY RECOMMENDED that defendant's motion to dismiss (ECF No. 17) be denied.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten (10) days
9 after being served with these findings and recommendations, defendant may file written
10 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
11 Findings and Recommendations." Local Rule 304(d). Defendant is advised that failure to file
12 objections within the specified time may waive the right to appeal the District Court's order.
13 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: July 25, 2018.

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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