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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA NEIL HARRELL,  
Plaintiff,  
v.  
CALIFORNIA FORENSIC MEDICAL  
GROUP, INC., et al.,  
Defendants.

No. 2:15-cv-0579 DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. On March 21, 2017, the court dismissed plaintiff's fourth amended complaint. (ECF No. 51.) Plaintiff was permitted thirty days to file a fifth amended complaint. On June 29, 2017, plaintiff moved for an extension of time. On July 11, 2017, the court granted plaintiff a thirty-day extension of time to file a fifth amended complaint. (ECF No. 57.)

On July 24, 2017, the copy of the July 11 order that was served on plaintiff was returned to the court as undeliverable because plaintiff was no longer in custody. Based on a change of address plaintiff filed in another action in this court, the court updated plaintiff's address to 7217 Franklin Blvd., Ste. 370, Sacramento, CA 95823. On September 11, 2017, a copy of the court's July 11 order was re-served on plaintiff at that address. Therefore, any fifth amended complaint should have been filed within thirty days of the September 11 order.


1 On October 23, 2017, the court ordered plaintiff to show cause within fourteen days why this  
2 case should not be dismissed for his failure to prosecute it. More than fourteen days have passed  
3 and plaintiff has not responded in any way to the court's October 23 order.

4 Accordingly, the Clerk of the Court is HEREBY ORDERED to assign a district judge to this  
5 case; and

6 IT IS HEREBY RECOMMENDED that this case be dismissed for failure to prosecute. See  
7 E.D. Cal. R. 110; Fed. R. Civ. P. 41.

8 These findings and recommendations will be submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
10 after being served with these findings and recommendations, plaintiff may file written objections  
11 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
12 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
13 time may result in waiver of the right to appeal the district court's order. Martinez v. Ylst, 951  
14 F.2d 1153 (9th Cir. 1991).

15 Dated: November 27, 2017

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19 DEBORAH BARNES  
20 UNITED STATES MAGISTRATE JUDGE

21 DLB:9  
22 DLB1/prisoner-civil rights/harr0579.fta fr

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