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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH DUANE TURNER,
Plaintiff,
v.
B. JOHNSON, et al.,
Defendants.

No. 2:15-cv-1584 WBS DB P

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. Plaintiff contends that while he was incarcerated at Deuel Vocational Institution (“DVI”) defendants retaliated against him for exercising his First Amendment rights. On May 5, 2016, a previously-assigned magistrate judge found service of plaintiff’s original complaint appropriate on defendants Brennan and Johnson. (ECF No. 21.) Plaintiff then sought to amend his complaint. On April 17, 2017, plaintiff filed a first amended complaint. (ECF No. 30.) Upon screening, in an order filed July 7, the undersigned magistrate judge found plaintiff stated claims against defendants Brennan and Johnson but failed to state cognizable claims against the other twenty-two defendants. (ECF No. 32.) Plaintiff was advised that he could proceed on his first amended complaint against defendant Brennan and Johnson or file an amended complaint.

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1 In August, plaintiff submitted service documents, but insufficient copies of his complaint, for
2 defendants Brennan and Johnson. At the same time, plaintiff challenged the dismissal of the
3 remaining defendants. (ECF No. 33.) In response, the court reaffirmed its prior rulings and
4 ordered plaintiff to either, file an amended complaint, seek reconsideration from the district judge
5 of the court's July 7 screening order, or inform the court that he wishes to proceed against
6 defendants Johnson and Brennan and submit sufficient copies of the first amended complaint to
7 do so. (ECF No. 34.)

8 Plaintiff sought reconsideration by the district judge of the July 7 screening order. (ECF No.
9 35.) In an order filed September 22, the district judge affirmed the July 7 screening order and
10 plaintiff was again given the opportunity to either amend his complaint or inform the court that he
11 wishes to proceed against only Johnson and Brennan. (ECF No. 36.) When plaintiff did not
12 respond in any way to the district judge's order, the undersigned issued an order to show cause
13 why this case should not be dismissed for plaintiff's failure to comply with court orders. (Nov. 6,
14 2017 Order (ECF No. 37).) Plaintiff was given fourteen days to file a response. Plaintiff has not
15 filed any response to the order to show cause.

16 Accordingly, IT IS HEREBY RECOMMENDED that this case be dismissed without
17 prejudice for plaintiff's failure to comply with court orders. See E.D. Cal. R. 110; Fed. R. Civ. P.
18 41.

19 These findings and recommendations will be submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
21 after being served with these findings and recommendations, plaintiff may file written objections
22 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
23 and Recommendations." Plaintiff is advised that failure to file objections within the specified

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1 time may result in waiver of the right to appeal the district court's order. Martinez v. Ylst, 951
2 F.2d 1153 (9th Cir. 1991).

3 Dated: December 8, 2017

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6 DEBORAH BARNES
7 UNITED STATES MAGISTRATE JUDGE
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