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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GILROY E. JOHNSON,
Plaintiff,
v.
SUZANNE M. PERRY, et al.,
Defendants.

No. 2:16-cv-0367 MCE AC P

FINDINGS AND RECOMMENDATIONS

Plaintiff Gilroy Johnson is a state prisoner incarcerated at Kern Valley State Prison. Plaintiff proceeds pro se and in forma pauperis with a First Amended Complaint (FAC) filed pursuant to 42 U.S.C. § 1983. By order filed August 21, 2018, this court found that the FAC states potentially cognizable claims against defendants Rohon, Sieber and Rodriquez, based on conditions of plaintiff’s prior incarceration at High Desert State Prison. See ECF No. 12. The court directed plaintiff to complete and return to the court, within thirty days, the USM-285 forms and other information necessary for the United States Marshal to serve process on these defendants. Id.

That thirty-day deadline passed without plaintiff responding to the court’s order. The court, sua sponte, provided plaintiff an additional thirty days to submit the information necessary to proceed with this case. The court informed plaintiff that “[f]ailure to comply with this order

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1 will result in a recommendation that this action be dismissed for failure to prosecute.” ECF No.
2 14 at 1; see also id. at 2.

3 The second thirty-day period has expired and plaintiff has not responded to the court’s
4 order or otherwise communicated with the court.

5 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
6 prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

7 These findings and recommendations will be submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one (21)
9 days after being served with these findings and recommendations, plaintiff may file written
10 objections with the court. The document should be captioned “Objections to Findings and
11 Recommendations.” Plaintiff is advised that failure to file objections within the specified time
12 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th
13 Cir. 1991).

14 DATED: February 1, 2019

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16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE
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