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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GRADY HARRIS,
Plaintiff,
v.
JEFF MACOMBER, et al.,
Defendants.

No. 2:16-cv-00830-TLN-DB

ORDER

Plaintiff Grady Harris (“Plaintiff”), a state prisoner proceeding *pro se*, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 23, 2021, the magistrate judge issued findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one (21) days. (ECF No. 100.) Both Plaintiff and Defendant Leavitt have filed Objections to the Findings and Recommendations (ECF Nos. 102, 103), which have been considered by the Court.¹

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), this

¹ When Plaintiff filed the instant Objections, he also filed a request asking the Court to permit him to seek additional discovery from Defendants. (*See* ECF No. 101; ECF No. 102 at 2–5.) The magistrate judge assigned to this matter will address Plaintiff’s discovery-related request.

1 Court has conducted a *de novo* review of this case. *See McDonnell Douglas Corp. v. Commodore*
2 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982); *see*
3 *also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). Having reviewed the file under the
4 applicable legal standards, the Court finds the Findings and Recommendations to be supported by
5 the record and by the magistrate judge's analysis.

6 Defendant argues the Court should dismiss the second amended complaint because it was
7 filed nearly two months late. (ECF No. 103.) While Plaintiff's Second Amended Complaint was
8 untimely filed, the delay was not egregious, and it did not cause any significant inconvenience to
9 the Court or prejudice to Defendant. Further, public policy favors disposition of cases on their
10 merits. These factors considered, dismissal is an inappropriate remedy for Plaintiff's delayed
11 filing. *See Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).
12 Defendant's objections are therefore overruled.

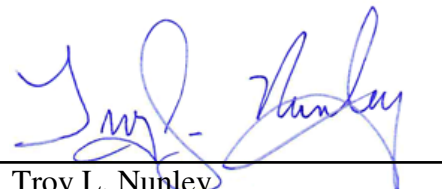
13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Findings and Recommendations issued March 23, 2021 (ECF No. 100), are
15 ADOPTED IN FULL, and
16 2. Defendant Leavitt's Motion to Dismiss (ECF No. 90) is DENIED as moot.

17 IT IS SO ORDERED.

18 DATED: May 3, 2021

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Troy L. Nunley
United States District Judge