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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID WESLEY BIRRELL, et al.,
Plaintiffs,
v.
ROBERT W. FOX, et al.,
Defendants.

No. 2:16-cv-01818 KJM CKD P

ORDER

Plaintiff Thomas Alford is a state prisoner proceeding pro se. On June 29, 2022, the assigned magistrate judge ordered plaintiff to file a status report within twenty-one days on whether he has obtained counsel or whether he wants to pursue the matter pro se. ECF No. 56. Plaintiff did not respond and on August 4, 2022, the magistrate judge issued findings and recommendations recommending, among other things, that plaintiff Alford be dismissed. ECF No. 61. On January 17, 2023, the court adopted the recommendation and plaintiff was dismissed. ECF No. 70. On January 27, 2023, plaintiff filed a document in which he indicates he never received a copy of the magistrate judge’s August 4, 2022 findings and recommendations and therefore was never permitted the opportunity to object to dismissal as provided for in the August 4, 2022 findings and recommendations. On March 6, 2023, the court vacated the judgment with respect to plaintiff and granted him fourteen days to file objections to the August 4, 2022 findings and recommendations. ECF No. 78. Plaintiff timely filed objections and

1 states he wishes to continue with the case, indicating his desire to pursue the matter pro se. ECF
2 No. 79.

3 Accordingly, the court declines to adopt the August 4, 2022 findings and
4 recommendations as to plaintiff Alford. (ECF No. 61). The court declines to dismiss plaintiff
5 Alford. This matter, as it pertains to him, is referred back to the assigned magistrate judge for
6 further pretrial proceedings.

7 This order resolves ECF No. 61.

8 DATED: March 24, 2023.

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12 CHIEF UNITED STATES DISTRICT JUDGE
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