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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT JOHNSON,  
Plaintiff,  
v.  
ROBERT W. FOX,  
Defendant.

No. 2:16-cv-2492 JAM 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. Upon screening, the court found plaintiff’s complaint failed to allege a potentially cognizable claim for relief against any defendant. (ECF No. 26.) Plaintiff was given the opportunity to file an amended complaint. In March 2017, plaintiff requested a sixty-day extension of time to file an amended complaint. The court granted that request on March 20, 2017. (ECF No. 30.)

On May 15, plaintiff filed a document with the court entitled “Motion to Close Case.” Therein, plaintiff states that he is now in disciplinary segregation and “this is a whole different case now.” (ECF No. 31.) It appears that plaintiff wishes to dismiss this action. Defendants have not made an appearance. Therefore, pursuant to Fed. R. Civ. P. 41(a), plaintiff’s request shall be honored.


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Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

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

Dated: June 7, 2017



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DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

DLB:9  
DLB1/prisoner-civil rights/John2492.59