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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK BLACKSHIRE,  
  
Plaintiff,  
  
v.  
  
SACRAMENTO COUNTY SHERIFF,  
  
Defendant.

No. 2:16-cv-2537-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a former county jail inmate proceeding without counsel in an action brought under 42 U.S.C. § 1983. Shortly after filing his complaint, plaintiff consented to the jurisdiction of a magistrate judge. ECF No. 6. On September 13, 2017, after plaintiff failed to comply with the court’s August 2, 2017 screening order dismissing the complaint with leave to amend, the magistrate judge dismissed the case without prejudice. ECF No. 16. Plaintiff now moves for reconsideration, stating that he was unable to respond to the court’s screening order “because of incarceration and address changes.” ECF No. 18.

In light of the recent decision in *Williams v. King*, 875 F.3d 500 (9th Cir. 2017), plaintiff’s motion for reconsideration should be granted. *Williams* holds that *all* parties, including unserved defendants, must consent in order for jurisdiction to vest with the magistrate judge pursuant to 28 U.S.C. § 636(c)(1). ECF No. 15. Dismissal in this case was therefore improper because the defendant, against whom plaintiff failed to state a claim and who was not served, did not consent

1 to the jurisdiction of the magistrate judge. The court will therefore recommend that this case be  
2 reopened and that plaintiff be permitted another opportunity to comply with the court's August 2,  
3 2017 screening order.

4 Accordingly, IT IS HEREBY ORDERED that the Clerk shall randomly assign a United  
5 States District Judge to this action.

6 Further, IT IS HEREBY RECOMMENDED that:

- 7 1. Plaintiff's motion for reconsideration (ECF No. 18) be granted and the Clerk be  
8 directed to vacate the September 13, 2017 order (ECF No. 16) and judgment (ECF No.  
9 17) and reopen the case.
- 10 2. The Clerk be directed to re-serve plaintiff with a copy of the court's August 2, 2017  
11 screening order (ECF No. 15).
- 12 3. Plaintiff be granted 30 days from any order adopting these findings and  
13 recommendations to file an amended complaint curing the deficiencies identified in  
14 the August 2, 2017 screening order and warned that failure to do so may result in a  
15 recommendation of dismissal.

16 These findings and recommendations are submitted to the United States District Judge  
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
18 after being served with these findings and recommendations, any party may file written  
19 objections with the court and serve a copy on all parties. Such a document should be captioned  
20 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
21 objections shall be served and filed within fourteen days after service of the objections. The  
22 parties are advised that failure to file objections within the specified time may waive the right to  
23 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
24 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

25 Dated: May 1, 2018.

26   
27 EDMUND F. BRENNAN  
28 UNITED STATES MAGISTRATE JUDGE