IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DARON MICHAEL OLIVER,

Plaintiff,

v.

DUANE SHELTON, et al.,

Defendants.

No. 2:18-CV-1809-KJM-DMC

ORDER

Plaintiff, who is proceeding pro se, brings this civil action. The matter was referred to a United States Magistrate Judge as provided by Eastern District of California local rules.

On January 5, 2022, the Magistrate Judge filed findings and recommendations, which were served on the parties and which contained notice that the parties may file objections within the time specified therein. No objections to the findings and recommendations have been filed.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate]

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court . . . ."). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed January 5, 2022, are adopted in full;

2. Plaintiff's failure to file an opposition to the pending motion to dismiss is construed as non-opposition to the relief requested;

3. The motion to dismiss filed by Defendants Shelton and Hatley, ECF No. 70, is granted;

4. Shelton and Hatley are dismissed with prejudice as defendants to this action;

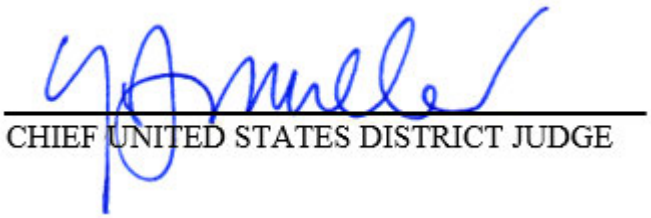
5. The action shall proceed against Defendant Mell only;

6. The fourth amended complaint, ECF No. 69, is dismissed with leave to amend;

7. The operative pleading in this case is the fifth amended complaint filed on January 19, 2022, ECF No. 76, which Defendant has answered; and

8. The case is referred back to the assigned Magistrate Judge for pre-trial scheduling and further proceedings consistent with the Local Rules.

DATED: May 23, 2022.



CHIEF UNITED STATES DISTRICT JUDGE