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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS LAMAR GARDNER, JR,

Plaintiff,

v.

VALLEJO POLICE DEPARTMENT, et
al.,

Defendants.

No. 2:18-cv-3248 JAM AC (PS)

ORDER and FINDINGS AND
RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On January 18, 2019, the court granted plaintiff’s in forma pauperis (“IFP”) application, rejected plaintiff’s complaint, and granted plaintiff 30 days to file an amended complaint. ECF No. 4. Plaintiff was cautioned that failure to do so could lead to a recommendation that the action be dismissed. Plaintiff requested an extension of time on January 28, 2019, which the court granted. ECF Nos. 5, 6. Plaintiff requested a second extension of time on February 27, 2019, which the court granted, setting a final due date for plaintiff’s amended complaint on March 20, 2019. ECF Nos. 8, 9.

On March 11, 2019, plaintiff filed a request for status, copies of documents from this and eight other of his pending cases, and another extension of time. ECF No. 13. The court declined to grant another extension of time or to provide copies of documents from multiple cases, and

1 confirmed that plaintiff's amended complaint was due March 20, 2019. ECF No. 12.

2 On March 22, 2019, the court received and docketed another request for extension of time.
3 Plaintiff requested an indefinite "postponement" of the case in light of his incarceration. This
4 request will be denied. As plaintiff has previously been informed, his incarceration does not
5 provide cause for an indefinite stay of proceedings. Plaintiff has already been provided additional
6 time to file his amended complaint.

7 Because the deadline to file an amended complaint has now passed, the undersigned will
8 recommend dismissal. However, it will be recommended that the case be dismissed without
9 prejudice, which means that plaintiff will not be barred from filing a new complaint under a new
10 case number in the future, when he is able.¹

11 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for extension of time,
12 ECF No. 13, is DENIED.

13 Further, IT IS HEREBY RECOMMENDED that this action be dismissed, without
14 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.
15 Civ. P. 41(b); Local Rule 110.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
18 (21) days after being served with these findings and recommendations, plaintiff may file written
19 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
20 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file
21 objections within the specified time may waive the right to appeal the District Court's order.
22 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 DATED: March 25, 2019

24 
25 ALLISON CLAIRE
26 UNITED STATES MAGISTRATE JUDGE

27 _____
28 ¹ The court makes no representations regarding the likely timeliness or cognizability of any future complaint raising the same matters.