

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL THOMAS HARVEY,
Plaintiff,
v.
NEVADA, et al.,
Defendants.

No. 2:19-cv-01123-TLN-CKD

ORDER

Plaintiff Daniel Thomas Harvey (“Plaintiff”) is proceeding in this action pro se and in forma pauperis. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 13, 2020, the magistrate judge filed findings and recommendations which contained notice to the parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 65.) Plaintiff filed objections to the findings and recommendations (ECF No. 66) and Defendants State of California, State of Nevada, Terry Roeser, Judge Thomas Gregory, Douglas County, Bernadette Smith, and James Halsey filed responses (ECF Nos. 67–70).

///

///

1 This Court reviews de novo those portions of the proposed findings of fact to which
2 objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*
3 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As
4 to any portion of the proposed findings of fact to which no objection has been made, the Court
5 assumes its correctness and decides the motions on the applicable law. See *Orand v. United*
6 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
7 reviewed de novo. See *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

8 Having carefully reviewed the entire file under the applicable legal standards, the Court
9 finds the Findings and Recommendations to be supported by the record and by the magistrate
10 judge's analysis. In addition, the court will order plaintiff to show cause why the remaining
11 defendants should not be dismissed due to his failure to timely serve the complaint. (See ECF
12 No. 46 (September 18, 2019 order granting Plaintiff 60 days from the date of this order in which
13 to submit service documents for defendants Kevin Walsh, Kay Ellen Armstrong, and Charles
14 Duke).)

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The Findings and Recommendations filed February 13, 2020 (ECF No. 65), are
17 adopted in full;
- 18 2. Defendant Matthew Ence's motion to dismiss (ECF No. 6) is granted per
19 plaintiff's request at the December 4, 2019 hearing;
- 20 2. Defendant Lori London's motion to dismiss (ECF No. 14) is granted per
21 plaintiff's request at the December 4, 2019 hearing;
- 22 3. Defendant Richard Cornell's motion to dismiss (ECF No. 8) is granted without
23 leave to amend;
- 24 4. Defendants Douglas County, Nevada, Bernadette Smith, and James Halsey's
25 motion to dismiss (ECF No. 10) is granted without leave to amend;
- 26 5. Defendants City of South Lake Tahoe, Andrew Eissinger, Jake Herminghaus, and
27 Shannon Laney's motion to dismiss (ECF No. 13) is granted without leave to amend;
- 28 6. Defendants Thomas Gregory and Terri Roeser's motion to dismiss (ECF Nos. 18,

1 40) is granted without leave to amend;

2 7. Defendant State of California's motion to dismiss (ECF No. 25) is granted without
3 leave to amend; and

4 8. Plaintiff is ordered to show cause no later than ten days from the date of this order why
5 the remaining defendants should not be dismissed due to his failure to timely serve the complaint.

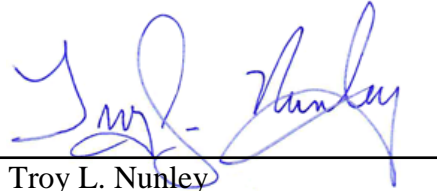
6 IT IS SO ORDERED.

7 Dated: March 23, 2020

8

9

10



11

Troy L. Nunley
United States District Judge

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28