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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLARENCE VINSON KNIGHT,
Plaintiff,
v.
MARION E. SPEARMAN,
Defendant.

No. 2:19-cv-01183 TLN GGH PC

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with an action filed pursuant to 42 U.S.C. § 1983. This matter was referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 302.

On August 19, 2019, upon the screening of the federal habeas petition, the court determined that plaintiff was seeking to set forth civil rights claims pursuant to 42 U.S.C. § 1983. ECF No. 6. Accordingly, the court granted plaintiff thirty days to file an in forma pauperis affidavit or pay the required filing fee of \$350.00 plus the \$50.00 administrative fee to pursue a civil rights action pursuant to 42 U.S.C. § 1983. Id.; see also 28 U.S.C. §§ 1914(a), 1915(a). In addition, plaintiff was granted thirty days to file an amended 42 U.S.C. § 1983 complaint. Id. On October 22, 2019, the court issued an order to show cause ordering petitioner to show cause within 14 days, why this matter should not be dismissed for failure to prosecute and/or to follow a court order pursuant to Federal Rules of Civil Procedure 41(b). ECF No. 7. Petitioner was

1 further informed that the filing of an amended 42 U.S.C. § 1983 complaint and in forma pauperis
2 application, or payment of the required filing fee, within the timeframe would serve as cause and
3 discharge the October 22, 2019 order. Id. Petitioner has not responded to the court's orders, nor
4 taken any action to prosecute this case.

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

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, plaintiff may file written objections
11 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
12 and Recommendations." Any response to the objections shall be filed and served within fourteen
13 days after service of the objections. Plaintiff is advised that failure to file objections within the
14 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
15 F.2d 1153 (9th Cir. 1991).

16 Dated: November 28, 2019

17 /s/ Gregory G. Hollows
18 UNITED STATES MAGISTRATE JUDGE
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