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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TEVIN LEE HARRIS,
Plaintiff,
v.
PLESHCHUCK, et al.,
Defendants.

No. 2:19-cv-01751-DAD-KJN (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION DUE TO PLAINTIFF’S FAILURE
TO PROSECUTE

(Doc. No. 135)

Plaintiff Tevin Lee Harris is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 302.

On June 26, 2023, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed, without prejudice, due to plaintiff’s failure to prosecute this action. (Doc. No. 135.) Specifically, the magistrate judge noted that the service copy of the court’s order dated April 25, 2023 (Doc. No. 132), which was mailed to plaintiff at his address of record, had been returned to the court marked as “Undeliverable.” Thus, plaintiff was required to file a notice of his change of address with the court no later than August 28, 2023. Because plaintiff had not done so, the magistrate judge concluded that plaintiff has failed to comply with Local Rule 183(b)’s requirement “that a party appearing *in propria persona* inform the court of any address change.” (*Id.* at 1.) Further, because plaintiff had not otherwise

1 communicated with the court, the magistrate judge concluded that plaintiff has failed to prosecute
2 this action. The pending findings and recommendations were served on plaintiff by mail at his
3 address of record and contained notice that any objections thereto were to be filed within fourteen
4 (14) days after service.¹ (*Id.* at 1–2.) To date, no objections to the findings and recommendations
5 have been filed, and the time in which to do so has now passed.

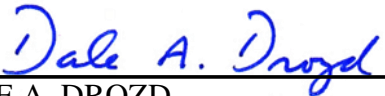
6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
8 findings and recommendations are supported by the record and by proper analysis.

9 Accordingly:

- 10 1. The findings and recommendations issued on June 26, 2023 (Doc. No. 135) are
11 adopted in full;
- 12 2. This action is dismissed, without prejudice, due to plaintiff’s failure to prosecute
13 this action; and
- 14 3. The Clerk of the Court is directed to close this case.

15 IT IS SO ORDERED.

16 Dated: October 3, 2023

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19 DALE A. DROZD
20 UNITED STATES DISTRICT JUDGE

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25 ¹ On July 5, 2023, the service copy of the findings and recommendations, as well as the service
26 copy of a court order issued on June 22, 2023, were returned to the court marked as
27 “Undeliverable, Inactive.” Thus, plaintiff was required to file a notice of his change of address
28 with the court no later than September 11, 2023. To date, plaintiff still has not filed a notice of
his change of address or otherwise communicated with the court. It appears that plaintiff may
have been released from CDCR custody. In any event, plaintiff has clearly failed to comply with
Local Rule 183(b) and prosecute this action.