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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUSSELL K. HUNT,
Plaintiff,
v.
STATE OF CALIFORNIA,
Defendant.

No. 2:20-cv-00109-TLN-AC

ORDER

Plaintiff Russell K. Hunt (“Plaintiff”), proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. 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 28, 2020, the magistrate judge filed findings and recommendations which were served on Plaintiff and which contained notice to Plaintiff that any objections to the findings and recommendations were to be filed within twenty-one days. (ECF No. 3.) On March 11, 2020, Plaintiff filed Objections to the Findings and Recommendations. (ECF No. 4.)

This Court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the Court assumes its correctness and decides the motions on the applicable law. See *Orand v. United*

1 States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
2 reviewed de novo. See *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

3 Having carefully reviewed the entire file under the applicable legal standards, the Court
4 finds the Findings and Recommendations to be supported by the record and by the magistrate
5 judge's analysis.


6 In his Objections to the Findings and Recommendations, Plaintiff argues his claim is
7 properly brought under 42 U.S.C. § 1983 because Judge Beatty was "acting on behalf of the state
8 under the color of authority." (ECF No. 4 at 2.) However, Plaintiff fails to address the numerous
9 legal deficiencies identified by the Findings and Recommendations. For example, Plaintiff fails
10 to refute the finding that the State of California is not a proper defendant under § 1983, Judge
11 Beatty is not a named defendant, or that if she was, the doctrine of judicial immunity would
12 nevertheless bar Plaintiff's action. Nor does Plaintiff provide any argument showing that his
13 pleading defects could be cured by amendment. *Doe v. United States*, 58 F.3d 484, 497 (9th Cir.
14 1995); see also *Gardner v. Marino*, 563 F.3d 981, 990 (9th Cir. 2009) (finding no abuse of
15 discretion in denying leave to amend when amendment would be futile). Therefore, Plaintiff's
16 objections are overruled.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. The findings and recommendations filed February 28, 2020 (ECF No. 3), are adopted
19 in full;
- 20 2. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED; and
- 21 3. Plaintiff's Complaint (ECF No. 1) is DISMISSED, with prejudice, for failure to state a
22 claim upon which relief can be granted.

23 IT IS SO ORDERED.

24 DATED: April 7, 2020

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Troy L. Nunley
United States District Judge