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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORRIN TYLER COLBOURN,
Plaintiff,
v.
JESS DARNELL, et al.,
Defendants.

No. 2:20-cv-1937 CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a Butte County Jail prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. On November 17, 2020, plaintiff was granted leave to file a fourth amended complaint. Plaintiff filed a fourth amended complaint on December 15, 2020.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

Plaintiff’s fourth amended complaint suffers from the same problems as his previous pleading: it is not coherent and, at times, is not legible. To the extent the court can make some sense of the fourth amended complaint, plaintiff appears to challenge his arrest. However, plaintiff has already been informed that in Younger v. Harris, 401 U.S. 37, 45 (1971), the

1 Supreme Court held that when there is a pending state criminal proceeding, federal courts must
2 refrain from interference absent special or extraordinary circumstances. Plaintiff makes no
3 intelligible showing of extraordinary circumstances.

4 In light of the foregoing, plaintiff's fourth amended complaint must be dismissed. As the
5 court has, on two occasions, informed plaintiff that his pleadings must be coherent and legible
6 and plaintiff has failed to comply with those orders, granting plaintiff leave to file a fifth amended
7 complaint appears futile. Therefore, the court will recommend that this action be dismissed.

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district
9 court judge to this case.

10 IT IS HEREBY RECOMMENDED that:

- 11 1. Plaintiff's fourth amended complaint be dismissed; and
- 12 2. This case be closed.

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

20 Dated: January 7, 2021

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22 _____
23 CAROLYN K. DELANEY
24 UNITED STATES MAGISTRATE JUDGE