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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD EUGENE JAMES,  
Plaintiff,  
v.  
STATE OF CALIFORNIA, et al.,  
Defendants.

No. 2:21-cv-00713-KJM-JDP (PC)

ORDER

Plaintiff, a county inmate 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 13, 2022, 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 fourteen days. The magistrate judge previously screened plaintiff's first amended complaint, notified him that it failed to state a claim and granted him thirty days to either file a second amended complaint or advise the court that he wishes to stand by the first amended complaint. ECF No. 19. After plaintiff failed to respond to that order, the magistrate judge recommended this case be dismissed for failure to prosecute, failure to comply with court orders and failure to state a claim for the reasons set forth in the magistrate judge's May 4, 2022 screening order. ECF No. 20. Plaintiff belatedly filed objections

1 to the findings and recommendations in which he reported difficulty receiving his mail. ECF  
2 No. 21. In light of those representations, the magistrate judge held the findings and  
3 recommendations in abeyance and granted plaintiff an additional thirty days to file an amended  
4 complaint. ECF No. 24. Having received no filings from the plaintiff within the thirty day  
5 period, the magistrate judge submitted the June 13, 2022 findings and recommendations to this  
6 court. Plaintiff filed a second amended complaint on December 27, 2022, two months past the  
7 thirty day deadline set by the magistrate judge. Second Amended Complaint (SAC), ECF No. 26.  
8 Plaintiff provided no reason for this delay. While the court accepts this late filing, the plaintiff is  
9 cautioned that the court will not be so lenient in the future. In his amended complaint plaintiff  
10 brings new allegations that defendants violated his Fourteenth Amendment rights while  
11 incarcerated because “his food is poisoned” and he is being “gas[s]ed with some sort of  
12 chemical[.]” SAC at 4. Plaintiff has not cured the remainder of his claims.

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
14 court has conducted a *de novo* review of this case. This matter will be referred back to the  
15 assigned magistrate judge for further review and consideration of whether dismissal is appropriate  
16 in light of the new allegations. .

17 Accordingly, IT IS HEREBY ORDERED this matter is referred back to the assigned  
18 magistrate judge for further proceedings consistent with this order.

19 DATED: January 16, 2023.

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22 CHIEF UNITED STATES DISTRICT JUDGE  
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