UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY PAUL SMITH,

          Plaintiff,

      v.

MUNICIPALTY OF FRESNO COUNTY,
et al.,

          Defendants.

No. 2:21-cv-01992 DJC AC

ORDER

Plaintiff, a former state prisoner proceeding pro se, 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 May 21, 2024, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 155.) Neither party filed objections to the findings and recommendations.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis. Having considered the factors described in *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir.

1

1 | 1992) the Court finds that dismissal is appropriate. Given the significant time and

2 | resources that have been devoted to this case, however, the Court is inclined to

3 | dismiss this action *with prejudice*. As this was not the recommendation of the

4 | Magistrate Judge, the Court will give Plaintiff one final opportunity to explain why

5 | dismissal with prejudice is not warranted in this case.

6 | Accordingly, Plaintiff is ORDERED TO SHOW CAUSE within fourteen (14) days

7 | as to why this case should not be dismissed WITH PREJUDICE. Failure to respond to

8 | this Order will result in the Court adopting the Findings and Recommendations (ECF

9 | No. 155) in part and dismissing this action with prejudice.

     IT IS SO ORDERED.

Dated: **July 12, 2024**

Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

Smit1992.801

2