

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL JOHNSON,
Plaintiff,
v.
LT. J. MATA, et al.,
Defendants.

No. 2:22-cv-0613 DAD KJN P

FINDINGS AND RECOMMENDATIONS

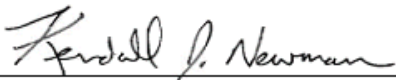
On April 10, 2023, defendants’ motion to dismiss plaintiff’s Fifth Amendment claims was granted. (ECF No. 61.) By order filed September 1, 2023, plaintiff was ordered to complete and file an election form indicating whether he chose to dismiss his putative Eighth Amendment claims or whether he would file an amended complaint and provide his proposed amended complaint. The thirty day period expired, and plaintiff has not filed his election form or otherwise responded to the court’s order.

Although it appears from the file that plaintiff’s copy of the order was returned, plaintiff was properly served. It is the plaintiff’s responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, plaintiff may file written
4 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
5 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
6 specified time waives the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
7 1153 (9th Cir. 1991).

8 Dated: October 10, 2023

9 
10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE

12 /john0613.fta
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28