

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

ELIJAH LEE MILLER,

 Plaintiff,

 v.

EHLERS, et al.,

 Defendants.

No. 2:22-cv-1569 DB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendants violated California law and acted in retaliation.

By order dated March 2, 2023, the court screened and dismissed the complaint for failure to state a claim. (ECF No. 6.) Plaintiff was granted thirty days leave to file an amended complaint and advised that failure to file an amended complaint would result in a recommendation that this action be dismissed. Those thirty days have passed, and plaintiff has not filed an amended complaint, sought additional time to file an amended complaint, updated her¹ address, or otherwise responded to the court’s order.² Accordingly, the undersigned will

¹ Plaintiff has identified herself as a transgender female (ECF No. 1 at 3), accordingly, where a pronoun is used to identify plaintiff, the pronouns “she” and “hers” will be used.

² Records indicate that plaintiff has been transferred from San Quentin State Prison to California Medical Facility. See <https://inmatelocator.cdcr.ca.gov/> (inmate locator website operated by the CDCR. This court may take judicial notice of such information. See Louis v. McCormick &

1 recommend that this action be dismissed for failure to prosecute and failure to comply with court
2 orders.

3 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 4 1. The Clerk of the Court shall randomly assign this action to a United States District
5 Judge; and
- 6 2. A copy of this order shall be served on plaintiff at California Medical Facility.

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

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days
11 after being served with these findings and recommendations, plaintiff may file written objections
12 with the court and serve a copy on all parties. Such a document should be captioned “Objections
13 to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
14 objections within the specified time may waive the right to appeal the District Court’s order.
15 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: June 2, 2023

17
18
19 
20 DEBORAH BARNES
21 UNITED STATES MAGISTRATE JUDGE

22
23 DB:12
24 DB/DB Prisoner Inbox/Civil Rights/R/mill1569.fta.f&r

25
26 Schmick Restaurant Corp., 460 F. Supp. 2d 1153, 1155 fn.4 (C.D. Cal. 2006) (court may take
27 judicial notice of state agency records); Pacheco v. Diaz, No. 1:19-cv-0774 SAB (PC), 2019 WL
28 5073594, at *2 (E.D. Cal. Sept. 4, 2019) (court may take judicial notice of the California
Department of Corrections and Rehabilitation's inmate locator system). Pursuant to Local Rule
183(b) plaintiff is required to keep the court advised as to his current address.

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