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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAI ZAIN YSAGUIRRE,
Plaintiff,
v.
R. RODRIGUEZ, et al.,
Defendants.

No. 2:23-cv-0327 AC
ORDER and
FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On September 27, 2024, the court granted a motion to compel brought by defendants and ordered plaintiff to respond to defendants’ discovery requests within 30 days. ECF No. 22. The order was mailed to plaintiff at the address plaintiff provided to the court but was returned undeliverable on October 7, 2024. See Docket Notation dated October 7, 2024. Plaintiff was directed to update his address by December 16, 2024. Id. On November 1, 2024, defendants filed a mid-litigation statement indicating that they had attempted to reach plaintiff at his last known address, and via an email address that plaintiff previously used, but they have been unable to reach plaintiff. ECF No. 23 at 2. Defendants reported that they have not received the ordered discovery. The undersigned issued an Order to Show Cause why this case should not be dismissed for failure to prosecute on
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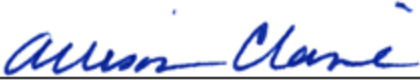
1 December 19, 2024. ECF No. 24. Plaintiff’s response was due January 3, 2025, but plaintiff did
2 not respond. Id.

3 In recommending this action be dismissed for failure to prosecute, the court has
4 considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.” Ferdik v.
7 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Plaintiff has not participated
8 in discovery and has not prosecuted this case. Because this case cannot move forward without
9 plaintiff’s participation, the court finds the factors weigh in favor of dismissal.

10 Therefore, IT IS HEREBY ORDERED that the Clerk of Court assign a District Judge to
11 this case. It is further RECOMMENDED that this action be dismissed, without prejudice, for
12 lack of prosecution and for failure to comply with the court’s order. See Fed. R. Civ. P. 41(b);
13 Local Rule 110.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
16 (21) days after being served with these findings and recommendations, plaintiff may file written
17 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s
18 Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to file
19 objections within the specified time may waive the right to appeal the District Court’s order.
20 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: January 7, 2025

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23 ALLISON CLAIRE
24 UNITED STATES MAGISTRATE JUDGE
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