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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARRISON THOMAS FICKENWORTH,
Plaintiff,
v.
JIM COOPER, *et al.*,
Defendants.

No. 2:23-cv-00412-DJC-JDP (PC)

ORDER

Plaintiff, an 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 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 8, 2023, the Magistrate Judge filed findings and recommendations herein 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. Plaintiff did not file objections to the findings and recommendations, but he filed a notice stating that he did not receive either the court’s screening order (ECF No. 5) or order to show cause (ECF No. 8). (See ECF No. 10.) In light of Plaintiff’s response, the Magistrate Judge held his findings and recommendations in abeyance and granted Plaintiff an additional thirty days to file an amended complaint. (ECF No. 11.) The Magistrate Judge also directed the Clerk’s Office to send Plaintiff a courtesy

1 copy of his previous complaint. The courtesy copy sent by the Clerk's Office was
2 returned as undeliverable on September 19, 2023 with the notation "Undeliverable,
3 Not here, "TEMP OUT." Given the possibility that Plaintiff was temporarily relocated,
4 the undersigned issued another order to show cause (ECF No. 12), effectively giving
5 Plaintiff an additional 21 days to indicate he wished to prosecute this action. No
6 response to this second order to show cause has been received by the Court.

7 The Court presumes that any findings of fact are correct. See *Orand v. United*
8 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law
9 are reviewed de novo. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007)
10 ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the
11 district court and [the appellate] court . . ."). Having reviewed the file, the Court finds
12 the findings and recommendations to be supported by the record and by the proper
13 analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The findings and recommendations filed August 8, 2023, are adopted in full;
- 16 2. This action is dismissed without prejudice for failure to prosecute and failure
17 to comply with court orders for the reasons set forth in the July 5, 2023 order; and
- 18 3. The Clerk of Court is directed to close the case.

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20 Dated: December 29, 2023

/s/ Daniel J. Calabretta

21 THE HONORABLE DANIEL J. CALABRETTA
22 UNITED STATES DISTRICT JUDGE
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