1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DeANDRE ROBINSON, No. 2:24-cv-02542-EFB (PC) 12 Plaintiff. 13 v. ORDER AND FINDINGS AND RECOMMENDATIONS 14 HERNANDEZ, et al., 15 Defendants. 16 17 Plaintiff, currently confined in the Rio Cosumnes Correctional Center, proceeds without counsel in an action brought under 42 U.S.C. § 1983. Currently before the court are two motions 18 19 filed by plaintiff on August 16, 2024: (1) a "Motion for an Injunction" (ECF No. 16) and (2) a 20 "Motion for Relief from Default" (ECF No. 17). For the reasons that follow, it is recommended 21 that the motions be denied. 22 I. **Background** On June 18, 2024, the court directed plaintiff to submit certain documents to the court to 23 24 effectuate service of the complaint by the U.S. Marshal. ECF No. 9. Plaintiff submitted the 25 documents on July 15, 2024. ECF No. 11. On August 7, 2024, he inquired into the status of the 26 case and the clerk informed plaintiff that the service documents had been received. ECF No. 13. 27 On August 15, 2024, the court issued an order directing the U.S. Marshal to effectuate service on 28 defendants. ECF No. 14. Plaintiff's pending motions were filed the next day. ECF Nos. 16, 17. 1

II Analysi

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Both motions are premised on plaintiff's (apparently mistaken) belief that jail authorities threw away or otherwise failed to mail out the service documents to the court.

II. Analysis

Plaintiff asks the court to issue an order requiring jail authorities to produce all of his legal mail, send his mail out to the courts, and provide him with a copy of the mail log. ECF No. 16. Although plaintiff's "Motion for Relief from Default" is not clear, the court assumes that plaintiff wishes to be relieved from any sanction that may have resulted from a failure to comply with the court's order that he submit service documents. ECF No. 17. As both motions are premised on jail officials failing to mail plaintiff's service documents to the court – a fact which is belied by the court's receipt of the service documents – they must be denied.

III. Order and Recommendation

Accordingly, it is ORDERED that the Clerk of Court randomly assign a district judge to this action. It is further RECOMMENDED that plaintiff's motion for an injunction (ECF No. 16) and motion for relief from default (ECF No. 17) be denied without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: August 29, 2024

EDMUND F. BRENNAN

UNITED STATES MAGISTRATE JUDGE