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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FELIX GUZMAN RIVADENEIRA,
Plaintiff,
v.
DEPARTMENT OF HOMELAND
SECURITY, et al.,
Defendants.

Case No. [15-cv-03160-DMR](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

Plaintiff filed the present *pro se* prisoner complaint under 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction in this matter. Dkt. 5. He has also filed an application for leave to proceed *in forma pauperis*. Dkts. 2, 6.

On September 11, 2015, the Clerk of the Court notified Plaintiff that his *in forma pauperis* application was deficient due to the failure to include his certificate of funds and prisoner trust account statement for the previous six months. The Clerk informed Plaintiff that his action could not go forward until he filed the necessary documents within twenty-eight days, and that his failure to do so would result in dismissal of this action.

On September 21, 2015, the Clerk received Plaintiff's copy of the aforementioned September 11, 2015 notice with a notation that it was "RTS [returned to sender]" as undeliverable because the jail indicated that Plaintiff was "not here." Dkt. 8. To date, Plaintiff has not updated his address with the court or submitted any further pleadings in this case.

Pursuant to Northern District Local Rule 3-11 a party proceeding *pro se* whose address changes while an action is pending must promptly file a notice of change of address specifying the

1 new address. *See* L.R. 3-11(a). The court may dismiss without prejudice a complaint when:
2 (1) mail directed to the *pro se* party by the court has been returned to the court as not deliverable,
3 and (2) the court fails to receive within sixty days of this return a written communication from the
4 *pro se* party indicating a current address. *See* L.R. 3-11(b).

5 More than sixty days have passed since the mail directed to Plaintiff by the court was
6 returned as undeliverable. The court has not received a notice from Plaintiff of a new address.
7 Accordingly, the complaint is DISMISSED without prejudice pursuant to Rule 3-11 of the
8 Northern District Local Rules. Plaintiff's *in forma pauperis* application is DENIED as
9 incomplete. Dkts. 2, 6.

10 The Clerk shall enter judgment, terminate all pending motions, and close the file.¹

11 IT IS SO ORDERED.

12 Dated: November 24, 2015



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14 DONNA M. RYU
United States Magistrate Judge

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27 ¹ As mentioned above, Plaintiff has consented to magistrate judge jurisdiction. The undersigned
28 Magistrate Judge, then, has jurisdiction to dismiss this action, even though Defendants have not
served or consented to magistrate jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir.
1995) (holding that magistrate judge had jurisdiction to dismiss prison inmate's action under 42
U.S.C. § 1983 as frivolous without consent of defendants because defendants had not been served
yet and therefore were not parties).

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2 NORTHERN DISTRICT OF CALIFORNIA

3 FELIX GUZMAN RIVADENEIRA,

4 Plaintiff,

5 v.

6 DEPARTMENT OF HOMELAND
7 SECURITY, et al.,

8 Defendants.

Case No. [4:15-cv-03160-DMR](#)

CERTIFICATE OF SERVICE

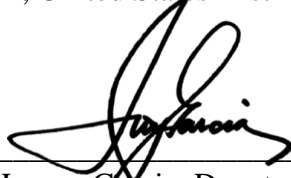
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on November 24, 2015, I SERVED a true and correct copy(ies) of the Order of
13 Dismissal Without Prejudice, by placing said copy(ies) in a postage paid envelope addressed to the
14 person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said
15 copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

16
17 Felix Guzman Rivadeneira ID: A #044666731
18 MCJ ID #122734
19 Mchenry County Jail
20 2200 N. Seminary Avenue
21 Woodstock, IL 60098

Dated: November 24, 2015

22 Susan Y. Soong
23 Clerk, United States District Court

24
25 By: 
26 Ivy Lerma Garcia, Deputy Clerk to the
27 Honorable DONNA M. RYU
28