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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENYON M. NORBERT,
Plaintiff,
v.
SAN FRANCISCO SHERIFF'S
DEPARTMENT STAFF,
Defendants.

Case No. [15-cv-05755-DMR](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

Plaintiff, who is currently in custody at the San Francisco County Jail #5 on 1 Moreland Drive, San Bruno, California, filed a *pro se* civil rights action pursuant to 42 U.S.C. § 1983, in which he alleged that jail officials violated his constitutional rights by being deliberately indifferent to his safety needs and by denying him “3 hrs. a week [of] recreation.” Dkt. 1 at 6.

Plaintiff has consented to magistrate judge jurisdiction in this matter. Dkt. 1 at 5.

In an Order dated July 7, 2016, the court reviewed the complaint and dismissed it with leave to amend. Dkt. 7. Thereafter, Plaintiff filed an amended complaint. Dkt. 11.

In an Order dated April 17, 2017, the Court dismissed Plaintiff’s amended complaint with leave to amend within twenty-eight days. Dkt. 12. The Court informed Plaintiff that failure to file a timely second amended complaint would result in the dismissal of his action without prejudice.

The twenty-eight-day deadline has passed, and Plaintiff has not filed a second amended complaint or communicated with the Court in any manner. Accordingly, this action is dismissed without prejudice. *See* Fed. R. Civ. P. 41(b).¹

¹ As mentioned above, Plaintiff has consented to magistrate judge jurisdiction. The undersigned Magistrate Judge, then, has jurisdiction to dismiss this action, even though Defendants have not been served or consented to magistrate jurisdiction. *Cf. 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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The Clerk of the Court shall terminate all pending motions and close the file.

IT IS SO ORDERED.

Dated: June 14, 2017



DONNA M. RYU
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 KENYON M. NORBERT,

4 Plaintiff,

5 v.

6 SAN FRANCISCO SHERIFF SFSD STAFF,
7 et al.,

8 Defendants.

Case No. [4:15-cv-05755-DMR](#)

CERTIFICATE OF SERVICE

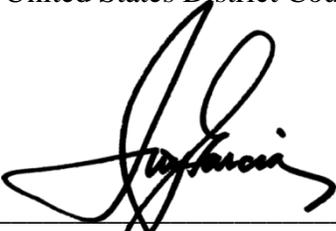
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on June 14, 2017, I SERVED a true and correct copy(ies) of the attached, by placing
13 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.

16
17 Kenyon M. Norbert ID: Jail #14672255
18 SF# 642643
19 P.O. Box 67
20 San Bruno, CA 94066

21 Dated: June 14, 2017

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

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