

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SHAWN KEVIN FROST,
Plaintiff,
v.
J. HALLOCK, et al.,
Defendants.

Case No. 17-CV-07229-LHK

**ORDER GRANTING OPPORTUNITY
TO OBJECT TO MAGISTRATE
JUDGE’S RULINGS**

Re: Dkt. Nos. 1, 5

This action originally was assigned to Magistrate Judge Jacqueline Scott Corley. Plaintiff and some defendants consented to proceed before a magistrate judge. At least one defendant did not consent to proceed before a magistrate judge.

This action was reassigned to the undersigned because a new Ninth Circuit case determined that all named parties, including unserved defendants, must consent before a magistrate judge has jurisdiction under 28 U.S.C. § 636(c)(1) to hear and decide a case. *See Williams v. King*, 875 F.3d 500, 503 (9th Cir. 2017) (“*Williams*”) (magistrate judge lacked jurisdiction to dismiss case on initial review because unserved defendants had not consented to proceed before magistrate judge). Under the *Williams* rule, magistrate judges are unable to take dispositive action on a consent basis if they do not have the consent of unserved defendants. Magistrate judges can, however, submit proposed findings

1 of fact and recommendations for the disposition of many pretrial matters. *See* 28 U.S.C.
2 § 636(b)(1)(A), (B). In a case in which full consent has not been obtained, and when a magistrate
3 judge submits proposed findings of fact and recommendations for the disposition of a pretrial matter,
4 the parties may serve and file written objections to the proposed findings of fact and recommendations.
5 *Id.* at § 636(b)(1); *see also* Fed. R. Civ. P. 72. Usually such objections are due within fourteen days of
6 the magistrate judge’s proposed findings of fact and recommendations. *See* Fed. R. Civ. P. 72(2), (b).

7 Here, Magistrate Judge Corley found that plaintiff had stated a cognizable claim for violation
8 of the Due Process Clause of the Fourteenth Amendment, but dismissed plaintiff’s First, Fifth, and
9 Eighth Amendment claims. *See* Dkt. No. 5 (“Screening Order”) at 2. The parties then proceeded
10 litigating the claim for violation of the Due Process Clause of the Fourteenth Amendment. Defendants
11 filed two motions for summary judgment as to plaintiff’s claim for violation of the Due Process Clause
12 of the Fourteenth Amendment. *See* Dkt. Nos. 35, 57. As the Court noted in its order deciding the
13 motions for summary judgment, plaintiff’s claim for violation of the Due Process Clause of the
14 Fourteenth Amendment was ripe for review.

15 Under the circumstances, the preferable approach is to treat Magistrate Judge Corley’s
16 Screening Order as proposed findings of fact and recommendations as to the First, Fifth, and Eighth
17 Amendment claims, and to give the parties an opportunity to file any objections to those proposed
18 findings of fact and recommendations. Accordingly, no later than **thirty days** from the date of this
19 order, any party may serve and file written objections to Magistrate Judge Corley’s Screening Order.
20 *See generally* Fed. R. Civ. P. 72(a) and (b). A party’s objections must consist of a single document of
21 no more than 20 pages. A party may respond to another party’s objections by filing and serving a
22 response within **thirty days** after being served with a copy of the objections. A party’s response to
23 another party’s objections must consist of a single document of no more than 20 pages.

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Once the court receives any objections and responses thereto, the court will “determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3).

IT IS SO ORDERED.

Dated:

LUCY H. KOH
United States District Judge