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28UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRIT F. AUGBORNE, III,

Case No. 2:20-cv-00295-ART-VCF

Plaintiff,

ORDER

v.

HDSP, et. al.,

Defendants.

Pro se Plaintiff Brit Augborne, III brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Cam Ferenbach (ECF No. 37), that Plaintiff’s case be dismissed for lack of prosecution and failure to obey court orders. Plaintiff had until June 15, 2022 to file an objection. Although no objection to the R&R has been filed to date, Plaintiff filed a Notice of Change of Address after the R&R was signed and entered, which indicates that Plaintiff seeks to prosecute the case and comply with future court orders. For this reason, and as explained below, the Court rejects the R&R.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no clear error on the face of the

1 record in order to accept the recommendation.”).

2 Here, Judge Ferenbach recommends that Plaintiff’s case be dismissed for
3 failure to prosecute and failure to comply with court orders (ECF No. 37 at 4:1-
4 2). Judge Ferenbach found that Plaintiff had failed to appear for two scheduled
5 hearings, the first on April 27, 2022, the second on June 1, 2022, and failed to
6 update his address with the Court, causing mail to be returned as undeliverable.
7 The Court mailed an Order to Show Cause (ECF No. 32) to Plaintiff at two
8 addresses and Plaintiff did not appear. Furthermore, a parole officer went to a
9 third address, which was Plaintiff’s last known address, and was told that
10 Plaintiff did not reside there. (ECF No. 37 at 2:1-5).

11 Judge Ferenbach’s R&R was signed and entered on June 1, 2022.
12 Objections to the R&R were due on June 15, 2022. On June 30, 2022, Plaintiff
13 notified the Court of Plaintiff’s current address (ECF No. 38). This shows that
14 Plaintiff seeks to properly prosecute the case and comply with future court orders.
15 Because Judge Ferenbach’s recommendation of dismissal was based on Plaintiff’s
16 failure to prosecute and comply with court orders, and because these deficiencies
17 have been cured by Plaintiff’s filing of a Notice of Change of Address, the Court
18 finds that dismissal is not appropriate.

19 Currently before the Court are: (1) Plaintiff’s request for production of
20 documents, electronically stored information, and tangible things (ECF No. 21);
21 (2) Defendants’ motion to strike Plaintiff’s request for production (ECF No. 22);
22 (3) Defendants’ motion to strike Plaintiff’s request for interrogatories, admissions,
23 and documents (ECF No. 23); and (4) Defendants’ motion for extension of
24 dispositive motion deadline (ECF No. 25). These four items have been referred to
25 Judge Ferenbach.

26 Having reviewed the R&R and the record in this case, the Court will reject
27 the R&R in full.

28 It is therefore ordered that Judge Ferenbach’s Report and Recommendation

1 (ECF No. 37) is rejected in full.

2 It is further ordered that Defendants' pending motions (ECF No.'s 22, 23,
3 25) be served upon Plaintiff at Plaintiff's updated address.

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5 DATED THIS 1st day of August 2022.

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ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE

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