

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JASON PAUL KELLEY,

CASE NO. 22-CV-01105-LK

Plaintiff,

ORDER ADOPTING REPORT AND RECOMMENDATION

KING COUNTY DEPARTMENT OF
ADULT AND JUVENILE DETENTION,
et al.,

Defendants.

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Michelle L. Peterson. Dkt. No. 8. Having reviewed this document, the remaining record, and the applicable law, the Court adopts the Report and Recommendation and dismisses this action without prejudice for failure to prosecute.

I. BACKGROUND

In August 2022, pro se plaintiff Jason Paul Kelley sued King County Department of Adult and Juvenile Detention and Jail Health Services under 42 U.S.C. § 1983. Dkt. No. 5 at 1. He alleged that jail staff failed to provide timely and adequate treatment for his swollen left leg—a painful

1 condition that continued to worsen and eventually spread to his foot. *See id.* at 4–8. Mr. Kelley
 2 also moved for leave to proceed in forma pauperis (“IFP”). Dkt. No. 3. After granting IFP status,
 3 Dkt. No. 4, Judge Peterson screened Mr. Kelley’s complaint pursuant to 28 U.S.C. § 1915A and
 4 declined to direct service on defendants because of several deficiencies, Dkt. No. 6 at 3–5. Judge
 5 Peterson nonetheless granted Mr. Kelley leave to amend. *Id.* at 5. The Clerk mailed copies of these
 6 orders to Mr. Kelley’s jail address.

7 This mail was returned to the Court with a notation indicating that Mr. Kelley had been
 8 released from custody. Dkt. No. 7. After sixty days passed without notification from Mr. Kelley
 9 as to his current address, Judge Peterson recommended dismissing this action without prejudice
 10 for failure to prosecute. Dkt. No. 8 at 2; *see* LCR 41(b)(2). No objections have been filed.

11 **II. DISCUSSION**

12 The Court generally reviews findings and recommendations “*if objection is made*, but not
 13 otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)
 14 (emphasis in original). Even so, the Court’s independent review confirms that this action should
 15 be dismissed. A pro se litigant must keep the Court and opposing parties advised of his current
 16 mailing address. LCR 41(b)(2). If mail directed to a pro se plaintiff by the clerk is returned by the
 17 Postal Service, and if such plaintiff fails to notify the Court and opposing parties within 60 days
 18 thereafter of his current mailing address, the Court may dismiss the action without prejudice for
 19 failure to prosecute. *Id.* That is the case here. The orders mailed to Mr. Kelley were returned as
 20 undeliverable following his release from confinement and more than sixty days have passed with
 21 no update as to his current address. Dkt. Nos. 7, 9.

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III. CONCLUSION

The Court ADOPTS Judge Peterson's Report and Recommendation, Dkt. No. 8, and DISMISSES without prejudice Mr. Kelley's complaint. Dkt. No. 5. The Clerk is directed to send a copy of this Order to Mr. Kelley at his last known address.

Dated this 18th day of January, 2023.

Lauren King
Lauren King
United States District Judge