

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Arnie Garcia, Jr. v. O. Herrera, Officer, et al.

Garcia · No. 1:25-cv-00094 JLT HBK (PC) · Decided December 4, 2025

OPINION

(PC)Garcia

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ARNIE GARCIA, JR., Case No. 1:25-cv-00094 JLT HBK (PC) 12 Plaintiff, ORDER
ADOPTING FINDINGS AND

RECOMMENDATIONS

13 v. (Doc. 17) 14 O. HERRERA, Officer, et al., 15 Defendants. 16 17 Arnie Garcia Jr., a state
prisoner, is proceeding pro se and in forma pauperis in this civil 18 rights action under 42 U.S.C. §
1983. (Doc. 9.) The matter was referred to a United States 19 Magistrate Judge pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 The assigned magistrate judge issued a screening
order on Plaintiff's Complaint, finding 21 that the Complaint stated an Eighth Amendment
excessive force claim against Defendants O. 22 Herrera and J. Gallardo and an Eighth
Amendment failure to intervene claim against Defendant 23 Valencia, but failed to state any other
cognizable claims. (See generally Doc. 16.) The magistrate 24 judge afforded Plaintiff the option
to either (1) file an amended complaint, (2) file a notice to 25 stand on his complaint as screened
and proceed only on the cognizable claims identified in the 26 screening order, or (3) file a notice
to stand on the complaint subject to the magistrate judge 27 recommending the district court
dismiss claims for the reasons in the screening order. (Id. at 13- 28 15.) 1 After Plaintiff failed to
timely respond to the May 19, 2025 Order, on September 24, 2 | 2025, the magistrate judge issued
Findings and Recommendations to dismiss Plaintiff's 3 | Complaint for failure to prosecute and
comply with a Court order. (Doc. 18.) On September 30, 4 | 2025, the Court notified the parties
that objections were to be filed within 14 days. (Doc. 19.) The 5 | Court also served the Findings
and Recommendations and the notification on Plaintiff at his 6 | address of record. (See docket).
In doing so, the Court informed Plaintiff that the "failure to file 7 | objections within the specified
time may result in the waiver of rights on appeal." (/d.) (citing 8 || Wilkerson v. Wheeler, 772 F.3d
834, 838-39 (9th Cir. 2014), Baxter v. Sullivan, 923 F.2d 1391, 9 | 1394 (9th Cir. 1991).) 10 On
October 21, 2025, the postal service returned the Findings and Recommendations sent 11 | to
Plaintiff as "Undeliverable, Inmate Discharged/Inactive," and on November 3, 2025, the USPS 12

| returned the notice as “Undeliverable, Inmate Discharged, Inactive.” (See docket.) Plaintiff was
13 | required to provide an updated address within 30 days per Local Rule 183(b). To date,
Plaintiff 14 | has failed to update his address and has failed to respond to the September 24, 2025
Findings and 15 | Recommendations, and the time to do so has expired. 16 According to 28 U.S.C.
§ 636(b)(1)(C), the Court conducted a de novo review of this 17 | case. Having carefully reviewed
the entire file, the court concludes that the findings and 18 | recommendation are supported by the
record and proper analysis. 19 Thus, the Court ORDERS: 20 1. The Findings and
Recommendations issued on September 24, 2025 (Doc. 18) are 21 ADOPTED in full. 22 2. This
action is dismissed without prejudice. 23 3. The Clerk of Court is directed to close this case. 24 95
IT IS SO ORDERED. | Dated: _ December 4, 2025 Charis [Tourn
TED STATES DISTRICT JUDGE

' Absent notice of a party’s change of address, service of documents at the prior address of the
party is 28 | fully effective. Local Rule 182(f).