

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2021

FOR THE NINTH CIRCUIT

dismissal order 28
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RENO FUENTES RIOS, § 1915A. We affirm No. 18-16647

Plaintiff-Appellant, dismissed R.D.C. No. 1:11-cv-00667-LJO-EPG

because this claim is precluded by the court's

MEMORANDUM*

WARDEN, CSP-Corcoran, 377 F.3d 1007 (9th Cir. 2006), cert. denied, 549 U.S. 1066 (2006).

Defendants-Appellees. 377 F.3d 1007 (9th Cir. 2006), cert. denied, 549 U.S. 1066 (2006).

and recommendations for claim preclusion and is not precedent.

Appeal from the United States District Court

for the Eastern District of California

Lawrence J. O'Neill, District Judge, Presiding

claim that the facts alleged are sufficient to state a plausible claim.

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

The abeyance order previously issued in this case (Docket Entry No. 11) is

vacated.

California state prisoner Reno Fuentes Rios appeals pro se from the district

court's judgment dismissing his action alleging constitutional claims arising out of

We affirm the district court's contention that the magistrate judge's

the district court did not conduct an evidentiary hearing.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RENO FUENTES RIOS,

Plaintiff,

v.

WARDEN OF CSP-CORCORAN, et al.,

Defendants.

Case No. 1:11-cv-00667-LJO-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF NOS. 45 & 47)

ORDER FOR CLERK TO CLOSE CASE

Reno Fuentes Rios ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 1, 2018, Magistrate Judge Erica P. Grosjean entered findings and recommendations, recommending "that the amended complaint (ECF No. 45) be DISMISSED without leave to amend and without prejudice to refile Plaintiff's claims regarding the Foreign Prisoners Transfer Treaty Program in a separate § 1983 action." (ECF No. 47, p. 18).

Plaintiff was provided an opportunity to file objections to the findings and recommendations. Plaintiff filed his objections on July 23, 2018. (ECF No. 50).

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and proper

1 analysis.

2 Accordingly, THE COURT HEREBY ORDERS that:

- 3 1. The findings and recommendations issued by Magistrate Judge Erica P.
4 Grosjean on June 1, 2018, are ADOPTED IN FULL;
- 5 2. The amended complaint (ECF No. 45) is DISMISSED without leave to amend
6 and without prejudice to Plaintiff asserting his claims regarding the Foreign
7 Prisoners Transfer Treaty Program in a separate § 1983 action; and
- 8 3. The Clerk of Court is directed to CLOSE this case.

9
10 IT IS SO ORDERED.

11 Dated: July 27, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE

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

JUDGMENT IN A CIVIL CASE

RENO FUENTES RIOS,

CASE NO: 1:11-CV-00667-LJO-EPG

v.

WARDEN OF CSP-CORCORAN,

XX -- Decision by the Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

**THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE
COURT'S ORDER FILED ON 7/30/2018**

Marianne Matherly
Clerk of Court

ENTERED: July 30, 2018

by: /s/ J. Hellings
Deputy Clerk

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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
9

10 RENO FUENTES RIOS,

11 Petitioner,

12 v.

13 WARDEN OF CSP-CORCORAN,

14 Respondent.
15

Case No. 1:11-cv-00667-EPG

ORDER DIRECTING CLERK OF COURT
TO CONVERT CASE TO CIVIL RIGHTS
ACTION PURSUANT TO 42 U.S.C. § 1983

16 Pursuant to the mandate of the United States Court of Appeals for the Ninth Circuit, the
17 judgment of the district court was vacated and this case was remanded with instructions that
18 Petitioner should be afforded leave to amend his petition to assert claims under 42 U.S.C. §
19 1983. (ECF Nos. 18, 19). On February 13, 2017, the Court received Petitioner's complaint
20 asserting claims under § 1983. (ECF No. 31).

21 Accordingly, the Clerk of Court is DIRECTED to convert the instant case to a civil rights
22 action pursuant to 42 U.S.C. § 1983.

23 IT IS SO ORDERED.
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25 Dated: February 21, 2017

26 /s/ Eric P. Gray
27 UNITED STATES MAGISTRATE JUDGE
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**Additional material
from this filing is
available in the
Clerk's Office.**