UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEVEN R.G. CANDLER,

Plaintiff,

v.

ABRAM CARO,

Defendant.

No. 1:25-cv-01409-JLT-SAB (PC)

FINDINGS AND RECOMMENDATIONS CONSTRUING RESPONSE TO ORDER TO SHOW CAUSE AND REQUEST FOR VOLUNTARY DISMISSAL OF ACTION

(ECF No. 12)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

I.

DISCUSSION

Plaintiff filed the instant action on October 22, 2025. (ECF No. 1.) On October 29, 2025, the Court ordered Plaintiff to show cause why the action should not be dismissed as duplicative of Candler v. Caro, Case No. 1:24-cv-00301-KES-SAB (PC). (ECF No. 8.)

Plaintiff filed a response on November 17, 2025. (ECF No. 12.) Plaintiff submits that he intended to file his complaint in the California Supreme Court and requests that the Court redirect the complaint to that Court. (Id.) On the operative complaint form, Plaintiff states that jurisdiction is pursuant to the "California Supreme Court, 350 McAllister St. San Francisco, CA 94102." (ECF No. 1 at 1.)

Based on Plaintiff's response, it is clear that Plaintiff intended to file the instant complaint in the California Supreme Court. Therefore, the Court construes Plaintiff's response as a request for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) (permitting a party to dismiss a

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case before the opposing party has served either a notice or a motion for summary judgment). Because no Defendant has appeared in this action and a motion for summary judgment has not been filed, Plaintiff has the absolute right to dismiss this action. See Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) ("[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.") (quotation and citation omitted).[1]

II.

RECOMMENDATIONS

Accordingly, it is HEREBY RECOMMENDED that:

1. Plaintiff's response to the order to show cause, (ECF No. 12) be construed as a request for voluntary dismissal; and
2. The instant action be dismissed pursuant to Plaintiff's request for voluntary dismissal.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court, limited to 15 pages in length, including exhibits. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **November 18, 2025**

STANLEY A. BOONE
United States Magistrate Judge

[1] Plaintiff is advised that the Court does not route or transfer filings for prisoners and such request should be denied.