UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT HUBER,

Plaintiff,

v.

FISHER,

Defendant.

No. 2:25-cv-1311-DC-CKD (PS)

ORDER

Plaintiff Herbert Huber proceeds in forma pauperis and without counsel and seeks relief for an alleged violation of his rights based on the seizure of his vehicle.[1] The court previously screened plaintiff's original complaint filed on May 7, 2025, determined it stated a cognizable claim under 42 U.S.C. § 1983 for a Fourth Amendment violation by defendant Fisher only, and determined that no other claims were cognizable. By the same order filed on August 22, 2025, the court granted plaintiff leave to file an amended complaint. (ECF No. 3.) The court also informed plaintiff he could proceed against defendant Fisher on the Fourth Amendment claim without filing an amended complaint by voluntarily dismissing the other claims and defendants. (Id. at 5.)

[1] This matter is before the undersigned pursuant to Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1).

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On September 18, 2025, plaintiff filed a document styled as a motion to dismiss, stating plaintiff voluntarily dismisses defendants Mike Howard, Armando Quintero (sued as "Qunitero"), Officer Josh, and all of plaintiff's Fourteenth Amendment claims. (ECF No. 5.) Plaintiff also filed a first amended complaint naming defendant Fisher only. (ECF No. 4.) On September 22, 2025, plaintiff re-filed the motion to dismiss, stating again he wishes to proceed with his Fourth Amendment claim against defendant Fisher only. (ECF No. 6.) Accordingly, the court will order that this case proceed on plaintiff's first amended complaint against defendant Fisher only. By separate order, the court will order plaintiff to submit to the U.S. Marshal the information needed for the U.S. Marshal to effectuate service of process on the defendant.

For the reasons set forth above, IT IS ORDERED as follows:

1. Plaintiff's motion to dismiss (ECF No. 6) is construed as requesting a voluntary dismissal under Rule 41(a) of the Federal Rules of Civil Procedure of certain claims and defendants; so construed, the motion is GRANTED. Defendants Mike Howard, Officer Josh, and Armando Quintero are dismissed from this case.

2. This case proceeds on plaintiff's first amended complaint (ECF No. 4) with plaintiff's Fourth Amendment claim against defendant Fisher.

Dated: September 24, 2025

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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