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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

## UNITED STATES COURT OF APPEALS

## FOR THE NINTH CIRCUIT

FARON E. LOVELACE,

Plaintiff-Appellant,

v.

ROBIN SANDY; et al.,

Defendants-Appellees.

No. 15-35518

D.C. No. 1:14-cv-00430-REB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Idaho  
Ronald E. Bush, Chief Magistrate Judge, Presiding

Submitted August 16, 2016\*\*

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Idaho state prisoner Faron E. Lovelace appeals pro se from the magistrate judge's judgment dismissing with prejudice his 42 U.S.C. § 1983 action arising out of the allegedly improper termination of a prison visit. We review de novo whether a magistrate judge has jurisdiction. *Allen v. Meyer*, 755 F.3d 866, 867-68

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\* 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).

(9th Cir. 2014). We vacate and remand.

Contrary to the magistrate judge’s statement in its order dismissing Lovelace’s amended complaint, Lovelace did not consent to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c)(1) (authorizing magistrate judge to “conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case” “[u]pon the consent of the parties”). The consent forms filed on October 17, 2014 and March 18, 2015 were executed by putative co-plaintiff Melissa Kuntz-Corta, not Lovelace. Accordingly, we vacate the judgment and remand to the district court for further proceedings. *See Allen*, 755 F.3d at 868 (judgment entered by magistrate judge a nullity where some parties did not consent to magistrate judge’s jurisdiction).

On remand, the district court may review the complaint de novo in the first instance pursuant to 28 U.S.C. § 1915A, or may construe the magistrate judge’s May 18, 2015 order as a report and recommendation and afford Lovelace reasonable time to file objections.

In light of our disposition, we do not consider the other issues raised in the opening brief.

**VACATED and REMANDED.**