

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 20 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

VINTON P. FROST,

No. 19-15579

Plaintiff-Appellant,

D.C. No. 3:17-cv-01240-JCS

v.

MEMORANDUM*

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant-Appellee,

and

MELANIE ANN PUSTAY; et al.,

Defendants.

Appeal from the United States District Court
for the Northern District of California
Joseph C. Spero, Magistrate Judge, Presiding

Submitted July 14, 2020**

Before: CANBY, FRIEDLAND, and R. NELSON, Circuit Judges.

Vinton P. Frost appeals pro se from the district court's summary judgment in

* 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).

his Freedom of Information Act action arising out of the Department of Justice's responses to his requests for records. We have jurisdiction under 28 U.S.C. § 1291. We review de novo whether the magistrate judge validly entered judgment on behalf of the district court. *Williams v. King*, 875 F.3d 500, 502 (9th Cir. 2017). We vacate and remand.

Frost consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c). The magistrate judge then dismissed claims against defendants Pustay and O'Neill before they had been served. *See* 28 U.S.C. § 1915A. Because all parties, including unserved defendants, must consent to proceed before the magistrate judge for jurisdiction to vest, *see Williams*, 875 F.3d at 503-04, we vacate the magistrate judge's May 15, 2017 order and remand for further proceedings as to the dismissed claims.

In light of our disposition, we do not consider Frost's contentions regarding summary judgment.

All pending motions and requests are denied.

The parties shall bear their own costs on appeal.

VACATED and REMANDED.