

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 30 2020

FOR THE NINTH CIRCUIT

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

ARTHUR RAY DEERE,

Plaintiff-Appellant,

v.

JOE A. LIZARRAGA, Warden,

Defendant-Appellee,

and

CDC EMPLOYEES; PRISON LAW
OFFICE,

Defendants.

No. 19-16851

D.C. No. 2:16-cv-01694-MCE-DB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

California state prisoner Arthur Deere appeals pro se from the district court's

* 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).

summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo whether the magistrate judge had jurisdiction. *Allen v. Meyer*, 755 F.3d 866, 867-68 (9th Cir. 2014). We vacate and remand.

Deere consented to proceed before the magistrate judge. *See* 28 U.S.C. § 636(c). The magistrate judge then screened and dismissed Deere's claims against the Prison Law Office before any named defendant had been served. *See* 28 U.S.C. § 636(c)(1). Because all parties, including unserved defendants, must consent to proceed before the magistrate judge for jurisdiction to vest, *Williams v. King*, 875 F.3d 500, 503-04 (9th Cir. 2017), we vacate the magistrate judge's March 28, 2017 order and remand for further proceedings.

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

All pending motions and requests are denied.

The parties will bear their own costs on appeal.

VACATED and REMANDED.