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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL DANCY,

Plaintiff,

vs.

A.K. SCRIBNER, et al.,

Defendants.

Case No. 1:07-cv-00716 OWW JLT (PC)

FINDINGS AND RECOMMENDATIONS  
GRANTING MOTION TO DISMISS

(Doc. 72, 76)

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Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. This proceeding was referred to the undersigned Magistrate Judge in accordance with 28 U.S.C. § 636(b)(1) and Local Rule 302. Pending before the Court is Defendant Gage’s motion to dismiss.

On December 28, 2010, the Magistrate Judge filed Amended Findings and Recommendations recommending that the motion to dismiss filed by Defendant Gage be granted because the facts alleged in the complaint, when coupled with Plaintiff’s admission that Gage was not a medical doctor, demonstrated that Gage did not commit a constitutional violation. (Doc. 76) The Magistrate Judge granted Plaintiff 30 days within which to file his objections to the Amended Findings and Recommendations. Id.

On February 1, 2011, Plaintiff filed his objections to the Amended Findings and Recommendations. (Doc. 78.) Plaintiff argues that Defendant Gage was contracted with the State of

1 California to provide medical care to inmates. Id. at 1. However, Plaintiff does not explain how he  
2 believes that this contractual relationship impacts the Court’s analysis. Plaintiff argues also that  
3 Defendant Gage “played a part in the delay in Plaintiff receiving the needed corrective surgery” (Id.) but  
4 fails to identify any facts in addition to those recited in his complaint, which have been fully considered  
5 by the Magistrate Judge. Finally, Plaintiff indicates that the Amended Findings and Recommendations  
6 are in error because the Court is unaware “of the full capacity of which FNP Anitra Gage was performing  
7 duties as a health care provider to inmates such as the Plaintiff in this suit.” Id. However, Plaintiff does  
8 not explain what this “full capacity” is or how the services provided to other inmates are pertinent to his  
9 lawsuit.

10 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and Britt v. Simi Valley United  
11 School Dist., 708 F.2d 452, 454 (9<sup>th</sup> Cir. 1983), this Court has conducted a *de novo* review of the case.  
12 Having carefully reviewed the entire file, the Court finds that the findings and recommendation are  
13 supported by the record and by proper analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The amended findings and recommendations filed December 28, 2010, are **ADOPTED**  
16 **IN FULL**;
- 17 2. The matter is **DISMISSED** as to Defendant Gage. IT IS SO ORDERED.

18 **Dated:** February 2, 2011

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE

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