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

ALAN DeVON,
Plaintiff,
vs.

1:07-cv-01727-AWI-GSA-PC
ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 32.)

DIAZ, et al.,
Defendants.

ORDER FOR THIS ACTION TO
PROCEED ON THE FIFTH AMENDED
COMPLAINT AGAINST DEFENDANTS ATKINS
AND CARLSON, ON PLAINTIFF’S EIGHTH
AMENDMENT MEDICAL CLAIM, AND
DISMISSING ALL OTHER CLAIMS AND
DEFENDANTS FOR FAILURE TO STATE A
CLAIM
ORDER REFERRING CASE BACK TO
MAGISTRATE JUDGE FOR FURTHER
PROCEEDINGS

_____ /

Alan DeVon (“plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 29, 2011, findings and recommendations were entered, recommending that this action proceed with the Fifth Amended Complaint filed on April 25, 2011, on Plaintiff’s Eighth Amendment medical claim found cognizable by the Court against defendants Atkins and Carlson, and that all other claims and defendants be dismissed for failure to state a claim. (Doc. 32.)

1 Plaintiff was provided an opportunity to file objections to the findings and recommendations within
2 thirty days. To date, plaintiff has not filed objections or otherwise responded to the findings and
3 recommendations.

4 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304,
5 this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
6 court finds the findings and recommendations to be supported by the record and proper analysis.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The Findings and Recommendations issued by the Magistrate Judge on April
9 29, 2011, are ADOPTED in full;
- 10 2. This action now PROCEEDS with the Fifth Amended Complaint filed on
11 April 25, 2011, on Plaintiff's Eighth Amendment medical claim found
12 cognizable by the Court against defendants Atkins and Carlson;
- 13 3. All remaining claims and defendants are DISMISSED, based on Plaintiff's
14 failure to state a claim upon which relief may be granted under § 1983;
- 15 4. Plaintiff's claims, if any, for supervisory liability are DISMISSED from this
16 action, based on Plaintiff's failure to state a claim upon which relief may be
17 granted under § 1983;
- 18 5. Defendants Fouch, Davis, and Prudhomme are DISMISSED from this action
19 based on Plaintiff's failure to state any claims upon which relief may be
20 granted against them under § 1983;
- 21 6. The Clerk is DIRECTED to:
 - 22 (1) Reflect on the docket the dismissal of defendants Fouch, Davis,
23 Prudhomme, Beeler, and Perez from this action, and
 - 24 (2) Add defendants Lieutenant T. Atkins and Nurse Carlson to the docket;
25 and

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7 This action is REFERRED back to the Magistrate Judge for further proceedings, including initiation of service.

IT IS SO ORDERED.

Dated: June 30, 2011



CHIEF UNITED STATES DISTRICT JUDGE