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

ZACARIAS GONZALEZ,

Plaintiff,

vs.

MATTHEW CATE, et al.,

Defendants.

1:09-cv-02149-LJO-GSA-PC

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 17.)

ORDER FOR THIS ACTION TO PROCEED
ON FIRST AMENDED COMPLAINT
AGAINST DEFENDANT GUINN FOR
FAILURE TO PROTECT, AND DISMISSING
ALL OTHER CLAIMS AND DEFENDANTS

_____ /

Zacarias Gonzalez ("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 January 4, 2011, findings and recommendations were entered, recommending that this action proceed on Plaintiff's First Amended Complaint against defendant Captain Guinn for failure to protect Plaintiff, and that all other claims and defendants be dismissed. (Doc. 17.) On February 4, 2011, Plaintiff filed objections and requested leave for another opportunity to amend the complaint. (Doc. 19.)

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

In his objections, Plaintiff argues that he should be granted another opportunity to amend the complaint because he has limited English skills and did not have adequate assistance from other inmates to prepare the Amended Complaint. Plaintiff asserts that he prepared the Amended

1 Complaint himself. The Court finds no deficiencies in the Amended Complaint that could be
2 attributed to limited English skills. Plaintiff also argues that the Amended Complaint alleges a claim
3 against each of the defendants at page 6, lines 20-26. The Court has reviewed page 6 and finds no
4 basis for a claim.

5 Accordingly, THE COURT HEREBY ORDERS that:

6 1. The Findings and Recommendations issued by the Magistrate Judge on January 4,
7 2011, are ADOPTED in full;

8 2. This action now PROCEEDS only against defendant Captain Guinn for failure to
9 protect Plaintiff;

10 3. All other claims and defendants are DISMISSED from this action based on
11 Plaintiff's failure to state a claim;

12 4. Plaintiff's claims for failure to train and supervisory liability are DISMISSED from
13 this action based on Plaintiff's failure to state a claim upon which relief may be granted;

14 5. Defendants Hartley, Recio, and Grubb are DISMISSED from this action based on
15 Plaintiff's failure to state any claims upon which relief may be granted against them;

16 6. The Clerk is DIRECTED to reflect the dismissal of defendants Hartley and Cate
17 from this action on the Court's docket; and

18 7. This case is REFERRED back to the Magistrate Judge for further proceedings,
19 including service of process.

20 IT IS SO ORDERED.

21 **Dated:** February 24, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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