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2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF CALIFORNIA
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6 TRADELL M. DIXON,
7 Plaintiff,
8 vs.
9 ELIZABETH S. FLIPPO, et al.,
10 Defendants.
11

1:13-cv-00165-DAD-EPG-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
ARAMAS FOR FAILURE TO PROTECT
PLAINTIFF, AND AGAINST DEFENDANTS
FLIPPO AND TRIESCH FOR INADEQUATE
MEDICAL CARE, AND THAT ALL OTHER
CLAIMS AND DEFENDANTS BE
DISMISSED FROM THIS ACTION

OBJECTIONS, IF ANY, DUE IN 20 DAYS
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14 Tradell M. Dixon (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma*
15 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. The case now proceeds on
16 the First Amended Complaint filed by Plaintiff on January 14, 2015. (ECF No. 9.) The First
17 Amended Complaint names as defendants Kelly Harrington, who was the Warden of KVSP at
18 the relevant time; Mauro Aramas, a correctional counselor at KVSP; Elizabeth S. Flippo, a
19 correctional officer at KVSP; and Carleen M. Triesch, a supervising registered nurse at KVSP.
20 Plaintiff asserted claims in the First Amended Complaint for (1) failure to protect Plaintiff, in
21 violation of the Eighth Amendment; (2) indifference to medical needs, in violation of the
22 Eighth Amendment; (3) unconstitutional informal customs, practices and/or policy; and (4)
23 inadequate staffing.

24 The Court screened Plaintiff’s First Amended Complaint pursuant to 28 U.S.C.
25 § 1915A and found that it states cognizable claims against defendant Aramas for failure to
26 protect Plaintiff, and against defendants Flippo and Triesch for inadequate medical care, in
27 violation of the Eighth Amendment. (ECF No. 12.) On March 30, 2016, the Court issued an
28 order for Plaintiff to either file a Second Amended Complaint or notify the Court that he is

1 willing to proceed only on the claims found cognizable by the Court. (Id.) On June 20, 2016,
2 Plaintiff filed a notice informing the Court that he is willing to proceed only on the cognizable
3 claims, against defendant Aramas for failure to protect Plaintiff, and against defendants Flippo
4 and Triesch for inadequate medical care, in violation of the Eighth Amendment. (ECF No. 13.)

5 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 6 1. This action proceed only against defendant Aramas for failure to protect
7 Plaintiff, and against defendants Flippo and Triesch for inadequate medical care,
8 in violation of the Eighth Amendment;
- 9 2. All remaining claims and defendants be dismissed from this action;
- 10 3. Plaintiff's claims for (1) unconstitutional informal customs, practices and/or
11 policy, and (2) inadequate staffing be dismissed from this action based on
12 Plaintiff's failure to state a claim; and
- 13 4. Defendant Kelly Harrington be dismissed from this action based on Plaintiff's
14 failure to state a claim against this defendant.

15 These Findings and Recommendations will be submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
17 **twenty (20) days** after being served with these Findings and Recommendations, Plaintiff may
18 file written objections with the Court. The document should be captioned "Objections to
19 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
20 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
21 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
22 (9th Cir. 1991)).

23
24 **IT IS SO ORDERED.**

25 Dated: **July 22, 2016**

26 */s/ Eric P. Grogan*
27 UNITED STATES MAGISTRATE JUDGE
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