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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

BARRY BARTLETT,  
Plaintiff,  
v.  
ALLEN, et al.,  
Defendants.

Case No. 1:14-cv-01932-LJO-DLB PC  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CERTAIN CLAIMS AND DEFENDANTS  
(Document 47)

Plaintiff Barry Bartlett (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis in this civil rights action. He filed this action on December 4, 2014.

Pursuant to Court order, Plaintiff filed a First Amended Complaint on August 14, 2015. 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 December 3, 2015, the Magistrate Judge issued [Findings and Recommendations](#) that the action go forward against Defendant Allenby on a conditions of confinement claim, and that the remaining claims and Defendants be dismissed. The Findings and Recommendations were served on Plaintiff and contained notice that any objections must be filed within thirty days. After receiving an extension of time, Plaintiff filed [objections](#) on February 3, 2016.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, including Plaintiff’s objections,

1 the Court finds the Findings and Recommendations to be supported by the record and by proper  
2 analysis.

3 Plaintiff's objection to the Magistrate Judge's analysis of the conditions of confinement  
4 claim is not clear. He states that "his motion is submitted as a separate issue in order to validate the  
5 First Amended Complaint, and he [does] agree with a part of the Magistrate's determinations." ECF  
6 No. 50, at 2.

7 Plaintiff then goes on to discuss the Ninth Circuit's decisions in Sullivan v. Kramer and  
8 Samuels v. Ahlin, though he does not clearly explain why these decisions require a different result.  
9 In fact, Plaintiff appears to be arguing under an assumption that the Magistrate Judge did not find  
10 any cognizable claims. He argues in favor of a conditions of confinement claim against Defendant  
11 Allenby, which is exactly the claim the Magistrate Judge found cognizable.

12 As to the Equal Protection claim, Plaintiff appears to argue that because African Americans  
13 are at higher risk of contracting Valley Fever, an Equal Protection claim exists. He is incorrect.  
14 First and foremost, Plaintiff alleged an Equal Protection claim based on his mental illness, and the  
15 Court is bound by the allegations in his First Amended Complaint. In any event, Plaintiff fails to  
16 allege facts to show that he was discriminated against because of his membership in a protected  
17 class, Furnace v. Sullivan, 705 F.3d 1021 (9th Cir. 2013), or that he was treated differently than  
18 similarly situated individuals. Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000).

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The Findings and Recommendations, filed December 3, 2015, are adopted in full;
- 21 2. This action SHALL proceed against Defendant Allenby on a conditions of  
22 confinement claim<sup>1</sup>;

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<sup>1</sup> Plaintiff will be instructed on service by separate order.

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3. Defendants Kramer, Ahlin, Mayberg, Brown, King and the Fresno County Board of Supervisors are DISMISSED.

IT IS SO ORDERED.

Dated: February 4, 2016

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