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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRACYE BENARD WASHINGTON,
Plaintiff,
v.
A. CASTILLO, et al.,
Defendants.

Case No.: 1:23-cv-01095-JLT-SKO (PC)

**FINDINGS AND RECOMMENDATIONS TO
DISMISS CERTAIN CLAIMS AND
DEFENDANTS FOLLOWING SCREENING
14-DAY OBJECTION PERIOD**

Plaintiff Tracye Benard Washington is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

I. RELEVANT BACKGROUND

On November 16, 2023, the Court issued its First Screening Order. (Doc. 14.) The Court found Plaintiff plausibly alleged an Eighth Amendment deliberate indifference to serious medical needs claim against Defendant Castillo-Barajas in his or her individual capacity only but had failed to allege any other cognizable claim against any other named Defendant. (*Id.* at 5-12.) Plaintiff was to elect one of the following options within 21 days of the date of service of the order: (1) to notify the Court in writing that he did not wish to file a first amended complaint and was willing to proceed only on the Eighth Amendment deliberate indifference to serious medical needs claim against Defendant Castillo-Barajas in his or her individual capacity, the remaining claims against any defendant to be dismissed; or (2) to file a first amended complaint curing the

1 deficiencies identified by the Court in this order; or (3) to file a notice of voluntary dismissal. (*Id.*
2 at 13.)

3 On November 30, 2023,¹ Plaintiff filed a document titled “Plaintiff’s Response to the
4 Courts Order on November 15, 2023 First Screening Arguing But Not Opposing This Courts
5 Discretion to Dismiss Claims Identified.” (Doc. 15.)

6 **II. DISCUSSION**

7 The Court construes Plaintiff’s November 30, 2023, filing to be a notice of willingness to
8 proceed on the claim found cognizable by the Court, as Plaintiff elected not to file an amended
9 complaint or a notice of voluntary dismissal as previously ordered.

10 For all the reasons set forth in the Court’s First Screening Order (Doc. 14) issued
11 November 16, 2023, the Court will recommend this action proceed on Plaintiff’s Eighth
12 Amendment deliberate indifference to serious medical needs claim against Defendant Castillo-
13 Barajas, in his or her individual capacity, with the remaining claims against any defendant to be
14 dismissed.

15 **III. CONCLUSION AND RECOMMENDATIONS**

16 Accordingly, the Court **RECOMMENDS** that:

- 17 1. This action **PROCEED** *only* on Plaintiff’s Eighth Amendment deliberate indifference
18 to serious medical needs claims against Defendant Castillo-Barajas, in his or her
19 individual capacity;
- 20 2. Any remaining claims in Plaintiff’s complaint against any defendant be **DISMISSED**;
21 and
- 22 3. Defendants A. Corona and E. Smith be **DISMISSED** from this action.

23 These Findings and Recommendations will be submitted to the district judge assigned to
24 this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of service of these
25 Findings and Recommendations, a party may file written objections with the Court. The
26

27 ¹ On that same date, Plaintiff filed a motion for temporary restraining order. (Doc. 16.) This Court is one of
28 the busiest district courts in the nation. The motion will be addressed in due course.

1 document should be captioned, “Objections to Magistrate Judge’s Findings and
2 Recommendations.” Failure to file objections within the specified time may result in waiver of
3 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
4 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

5
6 IT IS SO ORDERED.

7 Dated: December 4, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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