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

LIONELL THOLMER,

1:06-cv-01403-LJO-GSA-PC

Plaintiff,

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 26.)

vs.

JAMES A. YATES, et al.,

ORDER FOR THIS ACTION TO PROCEED
ONLY AGAINST DEFENDANTS YATES,
ALLISON, MATTINGLY, HUDSON, AND CHIEF
MEDICAL OFFICER JOHN DOE, ON PLAINTIFF'S
EIGHTH AMENDMENT MEDICAL CLAIMS, AND
DISMISSING ALL OTHER CLAIMS AND
DEFENDANTS

Defendants.

_____ /

Lionell Tholmer (“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 72-302.

On November 11, 2009, findings and recommendations were entered, recommending that this action proceed only against defendants Yates, Allison, Mattingly, Hudson, and Chief Medical Officer John Doe, on plaintiff's Eighth Amendment medical claims, and that all other claims and defendants be dismissed. Plaintiff was provided an opportunity to file objections to the findings and recommendations within thirty days. To date, plaintiff has not filed objections or otherwise responded to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 73-305, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and proper analysis.

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Accordingly, THE COURT HEREBY ORDERS that:

1. The Findings and Recommendations issued by the Magistrate Judge on November 12, 2009, are adopted in full;
2. This action now proceeds only against John Doe (Chief Medical Officer), James A. Yates (Warden), Allison (Correctional Counselor), J. Mattingly (Chief Deputy Warden), and C. Hudson (Appeals Coordinator), for violation of Plaintiff's rights to adequate medical care under the Eighth Amendment;
3. All remaining claims and defendants are dismissed from this action;
4. Defendants Tom Maddox (Director of CDCR), Spralding (CCI), Captain Beel, C/O Cabral, C/O Jobinger, C/O Martin, C/O Bruce, C/O Diaz, C/O Garcia and Lieutenant J. L. Scott are dismissed from this action based on Plaintiff's failure to state any claims upon which relief may be granted against them;
5. Plaintiff's claims for violation of Due Process, for violation of his rights under the First Amendment, for property deprivation, and for an inadequate prison inmate appeals process be dismissed based on Plaintiff's failure to state a claim upon which relief may be granted under section 1983; and
6. The Clerk is directed to:
 - A. Reflect on the court's docket the dismissal of defendants Maddox, Spralding, Beel, Cabral, Jobinger, Martin, Bruce, Diaz, Garcia, and Scott; and
 - B. Add to the court's docket defendants Allison (Correctional Counselor) and John Doe (Chief Medical Officer).

IT IS SO ORDERED.

Dated: January 5, 2010

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