

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JAMES ERIC MALLETT,

CASE NO. 1:07-cv-00721-LJO-GBC PC

Plaintiff,

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS RECOMMENDING  
DISMISSAL OF CERTAIN CLAIMS AND  
REFERRING CASE BACK TO MAGISTRATE  
JUDGE

v.

J. MCGUINNESS, et al.,

Defendants.

(Doc. 24)

Plaintiff James Eric Mallett ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis 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 October 22, 2010, the Magistrate Judge filed a [findings and recommendations](#) herein which was served on Plaintiff and which contained notice to Plaintiff that any objection to the findings and recommendations was to be filed within thirty days. (Doc. 25.) Plaintiff filed an [objection](#) to the findings and recommendations on November 22, 2010. (Doc. 27.) The Court has considered Plaintiff's objections and finds that Plaintiff has failed to allege facts that Defendant Bondoc acted with deliberate indifference and has therefore, failed to state a claim against her.

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, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed October 22, 2010, is adopted in full;
2. This action is proceeding on Plaintiff's second amended complaint, filed March 26, 2010, against Defendant McGuinness for deliberate indifference to medical needs;
3. Plaintiff's equal protection claim is dismissed, with prejudice, for failure to state a claim under section 1983;
4. Defendants Johnson and Bondoc are dismissed, with prejudice, based upon Plaintiff's failure to state a cognizable claim against them; and
5. This matter is referred back to the Magistrate Judge to initiate service of process proceedings.

IT IS SO ORDERED.

**Dated: November 23, 2010**

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