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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BALWINDER SINGH TUNG,
Plaintiff,

v.

ROBERT DOYLE, et al.,
Defendants.

CASE NO. 1:08-cv-00457-OWW-GBC PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DISMISSING CERTAIN DEFENDANTS AND
CLAIMS, AND REFERRING MATTER TO
MAGISTRATE JUDGE FOR SERVICE OF
PROCESS

(ECF Nos. 27, 28)

Plaintiff Balwinder Singh Tung (“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 January 26, 2011, the Magistrate Judge screened Plaintiff’s [third amended complaint](#) and issued a [findings and recommendations](#) recommending dismissal of certain claims and parties. 28 U.S.C. § 1915A. Plaintiff filed a timely [objection](#) on February 28, 2011. The objection has been considered.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has conducted a de novo review of this case. Having carefully reviewed the entire file, the undersigned finds the report and recommendation to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations, issued January 26, 2011, is adopted in full;
2. This action shall proceed on the third amended complaint, filed January 20, 2011,

1 against Defendants Schwarzenegger and Cate for adopting policies that violated the
2 Eighth Amendment while acting in their official capacity;

3 3. Plaintiff's second, third, and fourth causes of action are dismissed, with prejudice,
4 for failure to state a claim;

5 4. Plaintiff's claims against Defendants in their individual capacities are dismissed for
6 failure to state a claim;

7 5. Doe Defendants are dismissed, with prejudice, based on Plaintiff's failure to state a
8 cognizable claim against them;

9 6. Plaintiff's claims for injunctive relief are dismissed;

10 7. Plaintiff's motion for appointment of counsel is DENIED; and

11 8. This matter is referred back to the Magistrate Judge for initiation of service of
12 process.

13 IT IS SO ORDERED.

14 **Dated: March 2, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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