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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LUIS GORDIANO VERGARA,

Plaintiff,

v.

D. DATRAY, et al.,

Defendants.

CASE NO. 1:08-cv-00609-LJO-DLB PC

ORDER AFFIRMING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN DEFENDANTS

(Doc. 9)

Plaintiff Luis Gordiano Vergara (“Plaintiff”) is a federal prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors. 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 February 18, 2009, 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. Plaintiff did not file a timely Objection to the Findings and Recommendations.

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.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed February 18,2009, is adopted in full;
3 2. This action proceed only against defendants Datray, Cobbs, Cole, and Orosco on
4 Plaintiff's Eighth Amendment claims; and
5 3. Defendants Silva and Shank are dismissed from this action for Plaintiff's failure
6 to state any claims upon which relief may be granted.

7
8 IT IS SO ORDERED.

9 Dated: April 14, 2009

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