

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDREW R. LOPEZ,

 Plaintiff,

 v.

FLOREZ, et al.,

 Defendants.

1:08-cv-01975 LJO JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DENYING
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT AND GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT

(ECF Nos. 127, 148, 191)

Plaintiff, Andrew R. Lopez, is a state prisoner proceeding *pro se* and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that Defendants Reed and Flores provided him with inadequate medical care in violation of the Eighth Amendment and committed medical malpractice when they delayed in distributing his post-operative pain medication. (*See* ECF No. 23.) Plaintiff and Defendants filed cross-motions for summary judgment. (ECF Nos. 127, 148.)

On October 21, 2013, the Magistrate Judge issued a Findings and Recommendations to deny Defendants' motion and to grant Plaintiff's. (ECF No. 191.) This was served on both parties and contained notice that objections to the Findings and Recommendations were to be filed within fourteen days. (*Id.*) Defendants filed objections on November 4, 2013 to which Plaintiff responded on November 14, 2013. (ECF Nos. 194, 195.)

1 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this
2 case. Having carefully reviewed the entire file, the Court finds the Findings and
3 Recommendations to be supported by the record and proper analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations, filed on October 21, 2013 (ECF No. 191),
6 are adopted in full;
- 7 2. Plaintiff's motion for summary judgment, filed on February 22, 2013 (ECF No.
8 127), is GRANTED;
- 9 3. Defendants' motion for summary judgment, filed on April 4, 2013 (ECF No. 148),
10 is DENIED;
- 11 4. Plaintiff's request for injunctive relief in his motion for summary judgment is
12 DENIED; and
- 13 5. The case is referred back to the Magistrate Judge for further proceedings,
14 including a possible settlement conference and to set for trial on damages.

15 IT IS SO ORDERED.

16 Dated: November 20, 2013

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