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

ANDREW R. LOPEZ,
Plaintiff,
vs.
FLOREZ, et al.,
Defendants.

Case No. 1:08-cv-01975- LJO JLT (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. 28)

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. On December 23, 2011, the assigned Magistrate Judge screened Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A(a) and issued a findings and recommendations which found that while Plaintiff had stated a cognizable Eighth Amendment claim for deliberate indifference to his medical needs against Defendants Veronica, Reed, and Florez, Plaintiff’s remaining allegations failed to state a cognizable claim against any other defendant. (Doc. 28.) Accordingly, the Magistrate Judge recommended that this action proceed only on Plaintiff’s Eighth Amendment claim against Defendants Veronica, Reed, and Florez. Additionally, the Magistrate Judge advised that any parties intending to file objections must file the objections within twenty one days following service of the findings and recommendations. (*Id.*) On January 11, 2012, Plaintiff filed objections to the findings and recommendations. (Doc. 30.)

In accordance with 28 U.S.C. § 636(b)(1) and Local Rule 302, the Court has conducted a de novo

1 review of this case. Having carefully reviewed the entire file, including Plaintiff's objections, the Court
2 finds the findings and recommendations to be supported by the record and proper analysis.

3 Accordingly, it is **HEREBY ORDERED** that:

- 4 1. The findings and recommendations issued December 23, 2011, (Doc. 28), are adopted
5 in full; and
- 6 2. Plaintiff's claims for deliberate indifference against Defendants Adams, Cate, Clark I,
7 Clark II, Florez, Jackson, Jones, Kelso, Lopez, Macalvaine, McGuinness, Neubarth,
8 Reed, Romero, Sillen, Thomas, Woodford, and Doe #'s 1 through 4, are **DISMISSED**
9 with prejudice for failure to state a claim; and
- 10 3. Plaintiff's First Amendment claims alleging retaliation as to Defendants Reed and Florez
11 are **DISMISSED** with prejudice for failure to state a claim; and
- 12 4. This action is to proceed on Plaintiff's Eighth Amendment claims as to Defendants
13 Veronica, Reed, and Florez for their deliberate indifference in denying pain medication
14 to Plaintiff following his off-site surgery and related state law claims of malpractice and
15 violations of the California Constitution.

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17 IT IS SO ORDERED.

18 **Dated: January 27, 2012**

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

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