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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JUANITA ALLEN,)	CASE NO. 1:09-cv-00767-AWI-GSA PC
)	
Plaintiff,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS, GRANTING
v.)	DEFENDANTS’ MOTION TO DISMISS, AND
)	DISMISSING CDCR WITH PREJUDICE
CALIFORNIA DEPARTMENT OF)	
CORRECTIONS AND)	(Docs. 21 and 27)
REHABILITATION, et al.,)	
)	
Defendants.)	

Plaintiff Juanita Allen filed a complaint stating that she is the mother, next of kin, and heir to decedent Carl Smith (“Smith”) bringing this action for failure to furnish medical care to Smith in violation of California Government Code § 845.6, and that Smith’s Eighth and Fourteenth Amendment rights were violated by Defendants’ failure to provide Smith with medical care and deprivation of Smith’s life and liberty without due process of law 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 72-302.

On November 23, 2009, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice to the parties that objections were to be filed within thirty days. Neither party has filed an objection.

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.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. the Findings and Recommendations, filed November 23, 2009, is adopted in full;
- 3 2. Defendants motion to dismiss the California Department of Corrections and
- 4 Rehabilitation as a defendant in this action, filed October 9, 2009, is GRANTED;
- 5 3. the California Department of Corrections and Rehabilitation is hereby dismissed with
- 6 prejudice from this action; and
- 7 4. this matter is referred back to the Magistrate Judge to open discovery for the limited
- 8 purpose of identifying Defendants Doe 1 through 10.

9

10 IT IS SO ORDERED.

11 Dated: December 23, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE