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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PHILLIP T. RICKER,

Plaintiff,

v.

CALIFORNIA DEPARTMENT
OF CORRECTIONS MEDICAL
DEPARTMENT, et al.,

Defendants.

CASE NO. 1:09-cv-01433-LJO-GBC PC

ORDER DISMISSING CERTAIN CLAIMS
AND REFERRING MATTER BACK TO
MAGISTRATE JUDGE TO INITIATE
SERVICE OF PROCESS

(Docs. 1, 9, 14, 15)

Plaintiff Phillip T. Ricker (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983, filed the [complaint](#) in this action on August 14, 2009. On January 4, 2010, the Magistrate screened the complaint and found that it states cognizable claims against Defendants Tellorbes, Anderson, Hicks, Lopez, Stringer, La Vann, Alaape and Lambert for deliberate indifference to Plaintiff’s medical needs in violation of the Eighth Amendment, but does not state any other claims for relief under section 1983. 28 U.S.C. § 1915A. Plaintiff was [ordered to either file an amended complaint or notify](#) the Court of his willingness to proceed only on the claim found to be cognizable.

In response, Plaintiff filed an [amended complaint](#) on January 15, 2010. On August 26, 2010, the Magistrate screened the amended complaint and found that it failed to state a cognizable claim. Plaintiff was [ordered to file a second amended complaint or notify](#) the Court of his willingness to proceed only on the claims found cognizable in the original complaint filed August 14, 2009. On September 10, 2010, Plaintiff filed a [notice](#) that he does not wish to amend and is willing to proceed

1 only on the Eighth Amendment claims found cognizable in the original complaint.

2 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 3 1. This action proceed on the complaint filed August 14, 2009, only against Defendants
4 Tellorbes, Anderson, Hicks, Lopez, Stinger, La Vaan, Alaape, and Lambert for
5 deliberate indifference to Plaintiff's medical needs in violation of the Eighth
6 Amendment;
- 7 2. All remaining claims and Defendants be dismissed from this action;
- 8 3. Defendants Moon, Kim, Dhah, and Wang be dismissed from this action; and
- 9 4. This matter is referred back to the Magistrate Judge to initiate service of process
10 proceedings.

11
12 IT IS SO ORDERED.

13 Dated: October 15, 2010

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