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

KENNETH ROBERT HUSKEY,

Plaintiff,

vs.

PAM AHLIN, et al.,

Defendants.

Case No. 1:09-cv-01576 AWI JLT (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CLAIMS

ORDER DISMISSING CLAIMS AND  
FINDING THIS ACTION SHALL PROCEED  
ON PLAINTIFF'S FOURTEENTH  
AMENDMENT CLAIM AGAINST  
DEFENDANT LASLEY

(Doc. 25)

Plaintiff is a civil detainee prisoner proceeding pro se and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. On March 29, 2010, Plaintiff filed his First Amended Complaint. (Doc. 8.) By order filed January 3, 2011, the Court adopted the findings and recommendation which recommended certain claims be dismissed but allowed Plaintiff to proceed on his Fourteenth Amendment claims and associated state law claims as to Defendants Lasley and Pham. (Doc. 12.) On June 3, 2011, Defendants filed a motion to dismiss. (Doc 21.) On June 27, 2011, Plaintiff filed his opposition. (Doc. 22.)

On November 21, 2011, the Court granted Defendant's motions to dismiss as to Defendant Pham, but provided Plaintiff with leave to file a second amended complaint or alternatively proceed only

1 as to his claims against Defendant Lasley.<sup>1</sup> (Doc. 25.)

2 Additionally, on November 21, 2011, the Court issued its Findings and Recommendations,  
3 recommending that all of Plaintiff's state law claims be dismissed. (Doc. 25.) More specifically, the  
4 Court found that Plaintiff had failed to comply with the California Tort Claims Act in failing to  
5 commence his federal suit as to Defendants Pham and Lasley within six months of the time in which his  
6 administrative complaint filed with the state government claims board was rejected. (Id. at 7-9.) On  
7 December 09, 2011, Plaintiff filed his objections to the findings and recommendations. (Doc. 26.)

8 In accordance with 28 U.S.C. § 636(b)(1) and Local Rule 302, the Court has conducted a de novo  
9 review of this case. Having carefully reviewed the entire file, the Court finds the findings and  
10 recommendations to be supported by the record and proper analysis.

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

- 12 1. The findings and recommendations issued November 21, 2011, are adopted in full;
- 13 2. Plaintiff's state law claims against Defendants Pham and Lasley for medical malpractice,  
14 oppressive conduct, and violations of his due process rights as afforded under the  
15 California Constitution are **DISMISSED**; and
- 16 3. This action shall proceed on Plaintiff's claim regarding Defendant Lasley's delay in  
17 providing treatment and denial of Plaintiff's request to seek treatment from outside  
18 providers violated his due process rights afforded under the Fourteenth Amendment.

19 IT IS SO ORDERED.

20 Dated: December 23, 2011

  
21 CHIEF UNITED STATES DISTRICT JUDGE

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28 <sup>1</sup>On December 9, 2011, Plaintiff notified the Court that he wished to proceed only on the claim as to Defendant  
Lasley, found cognizable by the Court's November 21, 2011 order. (Doc. 27.)