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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGAL SAMUELS,
Plaintiff,
v.
PAM AHLIN, et al.,
Defendants.

No. 1:10-cv-00585-DAD-EPG
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS
(Doc. No. 87)

Plaintiff is a civil detainee proceeding pro se and *in forma pauperis* in this civil rights action 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 302.

On December 26, 2017, the assigned magistrate judge issued findings and recommendations, recommending that all claims and defendants be dismissed, except for plaintiff’s claims against defendants Pam Ahlin, Stephen Mayberg, Brian Pacheco, Sal Quintero, Andreas Borgeas, Nathan Maqsiq, Buddy Mendes, Arnold Schwarzenegger, Audrey King, Brandon Price, Ron Withrow, Karin Hundal, Ron Howard, and Cynthia Radavasky for violation of plaintiff’s right to safe conditions under the Due Process Clause. (Doc. No. 87 at 11.) The parties were provided an opportunity to file objections to the findings and recommendations within fourteen days. Defendants did not object. While plaintiff filed a document titled “Objections to Magistrate Judge’s Findings and Recommendations,” plaintiff notes therein that

1 “he does not [o]bject to the Magistrate’s decision” and “is satisfied with the determination.”
2 (Doc. No. 89 at 1.)

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, the
4 undersigned has conducted a *de novo* review of this case. Having carefully reviewed the entire
5 file, the undersigned concludes the findings and recommendations are supported by the record
6 and proper analysis, save and except for the reasoning concerning the dismissal of an ineffective
7 assistance claim against the Orange County Public Defender’s Office. Whatever the
8 constitutional basis for affording counsel during a civil commitment proceeding, *see Vitek v.*
9 *Jones*, 445 U.S. 480, 495 (1980); *Carty v. Nelson*, 426 F.3d 1064, 1074 (9th Cir. 2005), the
10 undersigned finds that it is clear plaintiff cannot state a claim under § 1983 against his public
11 defenders for their representation of him since they did not act “under color of state law” while
12 serving in such a capacity, *see Polk County v. Dodson*, 454 U.S. 312, 324–25 (1981).
13 Accordingly, plaintiff’s claim in this regard cannot proceed and is properly dismissed.

14 Given the above:

- 15 1. The findings and recommendations issued by the magistrate judge on December 26,
16 2017 (Doc. No. 87) are adopted, save and except to the extent discussed above;
- 17 2. All claims and defendants are dismissed, except for plaintiff’s claims against
18 defendants Pam Ahlin, Stephen Mayberg, Brian Pacheco, Sal Quintero, Andreas
19 Borgeas, Nathan Maqsiq, Buddy Mendes, Arnold Schwarzenegger, Audrey King,
20 Brandon Price, Ron Withrow, Karin Hundal, Ron Howard, and Cynthia Radavasky for
21 violation of plaintiff’s right to safe conditions under the Due Process Clause; and
- 22 3. This case is referred back to the magistrate judge for further proceedings.

23 IT IS SO ORDERED.

24 Dated: January 19, 2018

25 
26 _____
27 UNITED STATES DISTRICT JUDGE
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