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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAWRENCE CHRISTOPHER SMITH,

Plaintiff,

v.

ALLISON, et al.,

Defendants.

Case No. 1:10-cv-01814-LJO-JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANT BYERS' MOTION TO
DISMISS and DISREGARDING
DEFENDANT LANGLER'S MOTION TO
DISMISS AS MOOT

(Docs. 109, 132)

Plaintiff, Lawrence Christopher Smith, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983 which he filed on October 1, 2010. 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 March 18, 2015, the Magistrate Judge filed a Findings and Recommendations to grant and Defendant Byers' motion to dismiss and that Defendant Langler's motion to dismiss should be disregarded as moot since no claim for deliberate indifference was found cognizable against Defendant Langler. (Doc. 132.) The Findings and Recommendations were served that same day and contained provisions for the parties to file objections within thirty days. Plaintiff requested and was granted an extension to May 18, 2015 to file objections. (Docs. 136, 138.) Due to clerical error, an Order Adopting the Findings and Recommendations issued on May 1, 2015 which did not account for the granting of Plaintiff's requested extension to file his objections, but the error was caught and it was withdrawn. (Docs. 139, 140.) Despite lapse of a few weeks

1 beyond the extension granted to Plaintiff, neither side has filed any objections to the Findings and
2 Recommendations.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
4 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings
5 and Recommendations to be supported by the record and by proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Defendants’ motion to dismiss Plaintiff’s deliberate indifference claim against
8 Defendant Byers is GRANTED without leave to amend and Defendant Byers is
9 DISMISSED with prejudice from this action; and
- 10 2. the Screening F&R (Doc. 42) is clarified to the extent that no claim for deliberate
11 indifference was found cognizable against Defendant Langler and Defendants’
12 motion to dismiss any deliberate indifference claim against Defendant Langler is
13 DISREGARDED as moot.

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15 IT IS SO ORDERED.

16 Dated: June 1, 2015

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

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