

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAYMOND ALFORD BRADFORD,

 Plaintiff,

 v.

I. VELLA-LOPEZ, et al.,

 Defendants.

Case No. 1:11-cv-00990-AWI-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF’S RULE 56(D) MOTIONS, AND
GRANTING DEFENDANT PEPPERCORN’S
MOTION FOR SUMMARY JUDGMENT

(Docs. 46, 52, 61, and 80)

Plaintiff Raymond Alford Bradford (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 25, 2011. This action is proceeding on Plaintiff’s second amended complaint, filed January 31, 2014, against Defendants Brooks, Yu, and Peppercorn for violating Plaintiff’s right to adequate medical care under the Eighth Amendment of the United States Constitution.

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 9, 2014, the Magistrate Judge filed a Findings and Recommendations recommending that Defendant Robert Peppercorn’s motion for summary judgment be granted. Plaintiff filed an Objection on December 17, 2014, and Defendant Peppercorn filed a response on December 30, 2014. Local Rule 304(b), (d).

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the 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 Defendant Robert Peppercorn submitted evidence demonstrating that he is a dermatologist
2 practicing in Yuba City, California; he never treated Plaintiff; he never treated the condition at
3 issue in this case (ulcerative colitis and celiac disease); he never worked for the California
4 Department of Corrections and Rehabilitation at any of its prisons or consulted at any of its
5 prisons; and he does not know Defendant Brooks, the dietician who allegedly caused “Dr.
6 Peppercorn” to deny his special diet. In determining that Plaintiff failed (1) to identify any
7 legitimate legal basis for continuing the motion pending further discovery and (2) to submit any
8 evidence raising a triable issue of fact, the Magistrate Judge reviewed the second amended
9 complaint and the evidence upon which Plaintiff relied to identify a “Dr. Peppercorn” as a
10 defendant. The Magistrate Judge explained clearly why the evidence not only failed to support
11 Plaintiff’s position that Dr. Robert Peppercorn was involved with his medical care at California
12 State Prison-Corcoran but failed to support his position that there was a Dr. Peppercorn involved
13 in his prison medical care.

14 Plaintiff’s objections to the Findings and Recommendations lack merit. Plaintiff has
15 neither demonstrated entitlement to relief under Federal Rule of Civil Procedure 56(d) nor
16 produced evidence demonstrating the existence of any triable issues of fact. Accordingly, IT IS
17 HEREBY ORDERED that:

- 18 1. The Findings and Recommendations, filed on December 9, 2014, is adopted in full;
- 19 2. Plaintiff’s motions to continue Defendant Peppercorn’s motion for summary
20 judgment pending completion of discovery, filed on May 5, 2014, and on May 27,
21 2014, are DENIED; and
- 22 3. Defendant Peppercorn’s motion for summary judgment, filed on April 24, 2014, is
23 GRANTED.

24
25 IT IS SO ORDERED.

26 Dated: January 8, 2015


27 _____
28 SENIOR DISTRICT JUDGE