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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IRA GREEN,
Plaintiff,
v.
JOHN CHAKOTOS,
Defendant.

Case No. 1:11-cv-01611-LJO-DLB PC
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
RECOMMENDING TO DISMISS
CERTAIN CLAIMS**
(ECF No. 26)

Plaintiff Ira Green (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se in this civil 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.

Currently before the Court is Plaintiff's second amended complaint, filed May 3, 2013. (ECF No. 25.) On September 20, 2013, the Magistrate Judge issued findings and recommendations recommending dismissing certain claims. (ECF No. 26.) On October 23, 2013, Plaintiff filed objections to the findings and recommendations. (ECF No. 27.)

Pursuant to 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.

Plaintiff's objections argue that his claim of intentional infliction of emotional distress should not be dismissed. Although his second amended complaint was devoid of facts showing that he suffered extreme emotional distress, his objections state that he did in fact suffer extreme emotional

1 distress. However, Plaintiff second amended complaint also fails to plead facts of outrageous
2 conduct. Outrageous conduct must be so extreme as to exceed all bounds of that usually tolerated in
3 a civilized community. *Corales*, 567 F.3d at 571; *Tekkle*, 511 F.3d at 855; *Simo*, 322 F.3d at 622. As
4 such, Plaintiff fails to state a claim for intentional infliction of emotional distress.

5 Accordingly, it is HEREBY ORDDERED that:

6 1 This action proceed on Plaintiff's second amended complaint, filed May 3, 2013,
7 against Defendant John Chakotos for 1) deliberate indifference in violation of the Eighth
8 Amendment; and 2) state law negligence;

9 2. Plaintiff's remaining state law claims be dismissed, with prejudice, for failure to state
10 a claim; and

11 3. This matter is referred back to the Magistrate Judge to initiate service of process
12 proceedings.

13 IT IS SO ORDERED.

14 Dated: November 19, 2013

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