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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILL MOSES PALMER, III,

Plaintiff,

v.

DR. RICHARD P. BERKSON, et al.,

Defendants.

CASE No. 1:11-cv-01882-LJO-MJS (PC)

FINDINGS AND RECOMMENDATIONS
DISMISSING CERTAIN CLAIMS AND
DEFENDANTS

(ECF No. 10)

OBJECTIONS DUE WITHIN FOURTEEN (14)
DAYS

_____ /

Plaintiff Will Moses Palmer, III is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed November 14, 2011 pursuant to 42 U.S.C. § 1983. (ECF No. 1.)

On May 24, 2012, the Court screened the Complaint and ordered that by not later than June 27, 2012, Plaintiff either file an amended complaint curing the deficiencies identified by the Court in its screening order, or notify the Court in writing

1 that he does not wish to file an amended complaint and is willing to proceed only
2 against Defendants Clement and Huang on his due process claim. (ECF No. 5.) On
3 June 21, 2012, the Court issued an order granting Plaintiff's first motion to extend time
4 to August 23, 2012 in which to file a first amended complaint. (ECF No. 7.) The August
5 23, 2012 deadline passed without Plaintiff having filed an amended complaint or a
6 request for a further extension of time. On August 31, 2012, the Court issued an order
7 that, by not later than September 18, 2012, Plaintiff show cause why the claims in his
8 Complaint, other than the cognizable due process claim against Defendants Clement
9 and Huang, should not be dismissed. (ECF No. 10.) The September 18, 2012 deadline
10 passed without Plaintiff having responded to the Court's August 31, 2012 order.
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13 Plaintiff was advised that should he fail to respond, the Court would assume he
14 wished to proceed only against Defendants Clement and Huang on his due process
15 claim and dismiss the remaining claims and Defendants. (Id.)

16 Accordingly, all claims asserted and all Defendants named in Plaintiff's
17 Complaint except for his Fourteenth Amendment due process claim against Defendants
18 Clement and Huang should now be dismissed.

19
20 It is HEREBY RECOMMENDED that all claims in Plaintiff's Complaint except for
21 his Fourteenth Amendment due process claim against Defendants Clement and Huang
22 and all Defendants named in this action except for Defendants Clement and Huang
23 should now be dismissed with prejudice by the District Judge.

24 These Findings and Recommendations are submitted to the United States
25 District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. §
26 636(b)(1). Within fourteen (14) days of entry of this order, any party may file written
27

1 objections with the court and serve a copy on all parties. Such a document should be
2 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any
3 reply to the objections shall be served and filed within ten (10) days after service of the
4 objections. The parties are advised that failure to file objections within the specified time
5 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
6 (9th Cir. 1991).
7

8
9 IT IS SO ORDERED.

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11 Dated: October 23, 2012

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE