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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JAMES E. WHITE,
 Plaintiff,

 v.

MARK N. PAZIN, et al.,
 Defendants.

Case No. 1:12-cv-00917-AWI-BAM (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO GRANT IN
PART AND DENY IN PART DEFENDANTS’
12(b)(6) MOTION TO DISMISS**

(ECF Nos. 30, 42)

Plaintiff James E. White (“Plaintiff”) is a state prisoner proceeding in forma pauperis in this civil rights action under 42 U.S.C. § 1983.

On October 19, 2016, the Magistrate Judge issued Findings and Recommendations that Defendants’ motion to dismiss Plaintiff’s first amended complaint under Federal Rule of Civil Procedure 12(b)(6) be granted in part and denied in part. (ECF No. 42.) The Findings and Recommendations were served on the parties and contained notice to file any objections within thirty (30) days. (*Id.*, p. 22.) On November 7, 2016, Plaintiff filed a motion for a ninety (90) day extension of time to file objections to the Findings and Recommendations. (ECF No. 44.) On November 10, 2016, the Court issued an order denying in part and granting in part Plaintiff’s motion for extension of time, and provided Plaintiff an additional sixty (60) days to file objections. (ECF No. 46.) The deadline has expired, and no objections have been filed.

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.

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Accordingly, the Court HEREBY ORDERS that:

1. The Findings and Recommendations, issued on October 19, 2016, are adopted IN FULL;
2. Defendants' motion to dismiss Plaintiff's first amended complaint, filed June 23, 2015, is GRANTED IN PART as follows:
 - a. Plaintiff's claims under the Fifth and Eighth Amendment are DISMISSED, without leave to amend;
 - b. Plaintiff's claim for injunctive relief is DISMISSED, as moot, without leave to amend;
 - c. Plaintiff's claims against Defendants Blake, Cavallero, Scott, Thoreson, and Blodgett in their official capacities, and the Merced County Sheriff's Department, are DISMISSED for failure to state a claim, and the County of Merced is SUBSTITUTED as a defendant;
 - d. Plaintiff's claims against Defendants Blake, Cavallero, Scott, Thoreson, and Blodgett in their individual capacities are DISMISSED on the grounds that they are entitled to qualified immunity;
3. This case will proceed on Plaintiff's claims against the County of Merced for the violation of the First and Fourteenth Amendment based on the policy at Merced County Jail of denying visitations with minors under age 12 to pretrial detainees; and
4. This action is referred back to the Magistrate Judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: February 16, 2017



SENIOR DISTRICT JUDGE