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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TAYLOR GUNDY,

CASE No. 1:12-cv-01020-LJO-MJS (PC)

Plaintiff,

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS THAT  
DEFENDANTS' MOTIONS FOR PARTIAL  
DISMISSAL BE GRANTED

v.

(ECF No. 34)

CALIFORNIA DEPARTMENT OF  
CORRECTIONS & REHABILITATION, et  
al.,

CASE TO REMAIN OPEN

Defendants.

\_\_\_\_\_ /

Plaintiff Taylor Gundy, a former state prisoner, initiated this action on June 21, 2012 pursuant to 42 U.S.C. Section 1983. (Compl., ECF No. 1.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

1 On February 11, 2013, Findings and Recommendations were filed in which the  
2 Magistrate Judge recommended that the motion for partial dismissal brought by  
3 Defendants CDCR and Lopez (ECF No. 15) and the motion for partial dismissal brought  
4 by Defendants Arambula and Horton (ECF No.27) be granted such that Defendant  
5 CDCR be dismissed from this action and the state law claims asserted against  
6 Defendants Lopez, Arambula and Horton in the First Amended Complaint be dismissed  
7 without prejudice. (F & R Granting Defendants' Motions for Partial Dismissal, ECF No.  
8 34.)  
9

10 The parties were notified that objection, if any, was due within fourteen days after  
11 service. No party filed an objection to the Findings and Recommendations.  
12

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has  
14 conducted a de novo review of this case. Having carefully reviewed the entire file, the  
15 Court finds the Findings and Recommendations to be supported by the record and by  
16 proper analysis.  
17

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Court adopts the Findings and Recommendations filed February 11,  
20 2013, in full;
- 21 2. The motion for partial dismissal brought by Defendants CDCR and Lopez  
22 (ECF No. 15) and the motion for partial dismissal brought by Defendants  
23 Arambula and Horton (ECF No.27) ARE GRANTED such that Defendant  
24 CDCR is DISMISSED from this action and the state law claims asserted  
25 against Defendants Lopez, Arambula and Horton in the First Amended  
26 Complaint ARE DISMISSED without prejudice;  
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- 3. Plaintiff may proceed on his Eighth Amendment claim against Defendants Lopez, Horton, Arambula, Paik and DOES 1-50, against Defendants Paik and Pacific Orthopedic on his state law medical malpractice claim, and against Defendants Paik and DOES 1-50 on his state law failure to summon medical care claim; and
- 4. The Clerk is directed this case shall remain open.

IT IS SO ORDERED.

Dated: March 1, 2013

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