UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

EARL WARNER,

Plaintiff,

V.

M. CATE, et al.,

Defenden

Defendants.

CASE NO. 1:12-cv-01146-LJO-MJS (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO DENY DEFENDATS' MOTION FOR SUMMARY JUDGMENT

(ECF No. 116)

CASE TO REMAIN OPEN

Plaintiff is a prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's Eighth Amendment failure to protect claim against Defendants Walker, Prokop, Fellows, Spralding, and Davis¹. 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 August 16, 2016, the Magistrate Judge issued findings and recommendations (ECF No. 116) to deny Defendants' March 7, 2016 motion for summary judgment (ECF No. 99) and deny Plaintiff's May 25, 2016 request to stay the proceedings pursuant to

¹ Formerly Defendant D. McGaha.

1 Federal Rule of Civil Procedure 56(d). (ECF No. 108.) The Magistrate Judge imposed a 2 fourteen day objection deadline. (ECF No. 116.) To date, neither party has filed any 3 objections, and the time for doing so has passed. 4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, 5 the Court has conducted a de novo review of this case. Having carefully reviewed the 6 entire file, the Court finds the findings and recommendations to be supported by the 7 record and by proper analysis. 8 Accordingly, it is HEREBY ORDERED that: 9 1. The Court adopts the findings and recommendations filed on August 16, 10 2016 (ECF No. 116) in full; 11 2. Defendants' motion for summary judgment (ECF No. 99) is DENIED; 3. Plaintiff's motion to stay the proceedings pursuant to Rule 56(d) (ECF No. 12 13 108) is DENIED; and 14 4. The case shall proceed against Defendants Walker, Prokop, Fellows, Spralding, and Davis on Plaintiff's Eighth Amendment failure to protect 15 16 claim. 17 IT IS SO ORDERED. 18 Dated: **September 15, 2016** /s/ Lawrence J. O'Neill 19 UNITED STATES CHIEF DISTRICT JUDGE 20 21 22 23 24 25 26 27 28 2