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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEROY MANNING,
Plaintiff,

v.

L ZAMORA, et al.,
Defendants.

Case No. 1:12-cv-01621 LJO-SAB-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 46)

ORDER DISMISSING DEFENDANT CDCR

ORDER FOR ACTION TO PROCEED
AGAINST DEFENDANT KELLY

Plaintiff is a state prisoner proceeding pro se and in forma pauperis pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

On August 24, 2015, [findings and recommendations](#) were entered, recommending that Defendant Kelly's motion to dismiss be denied. The Magistrate Judge further recommended that Defendants Zamora, McElroy, Chapnick, Boparia and Plaintiff's Americans With Disabilities Act (ADA) and conspiracy claims be dismissed. The parties were provided an opportunity to file objections within thirty days. No objections the findings and recommendations have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 305, this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the record to be supported by the record and proper analysis.

1 Accordingly, THE COURT HEREBY ORDERS that:

- 2 1. The findings and recommendations issued by the Magistrate Judge on August 24,
3 2015, are adopted in full;
- 4 2. Defendant Kelly's motion to dismiss pursuant to Federal Rule of Civil Procedure
5 12(b)(6) is denied;
- 6 3. This action proceeds against Defendant Kelly on Plaintiff's claim of deliberate
7 indifference to serious medical needs in violation of the Eighth Amendment.
- 8 3. Defendants L. Zamora, D. McElroy, R. Chapnick and M. Boparai are dismissed;
- 9 4. Plaintiff's Americans With Disabilities Act and conspiracy claims are dismissed.
- 10 5. Defendant Kelly shall, within thirty days of the date of service of this order, file
11 an answer to the complaint.

12 IT IS SO ORDERED.

13
14 Dated: September 29, 2015

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