

1
2
3
4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
6

7 MICHAEL J. SULLIVAN,

8 Plaintiff,

9 vs.

10 M. D. BITER, et al.,

11 Defendants.
12
13
14

1:12-cv-01662-AWI-EPG-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 60.)

ORDER FOR THIS CASE TO
PROCEED ONLY AGAINST
DEFENDANTS CHEN, PATEL AND
MARCHIANO FOR DELIBERATE
INDIFFERENCE TO PLAINTIFF'S
MEDICAL NEEDS, AND DISMISSING
ALL OTHER CLAIMS AND
DEFENDANTS

15 Michael J. Sullivan ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
16 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to
17 a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

18 On February 17, 2016, the Magistrate Judge entered [findings and recommendations](#),
19 recommending that this action proceed only against defendants Dr. Chen, Dr. Marchiano, and
20 Dr. Patel, on Plaintiff's claims for deliberate indifference to Plaintiff's medical needs, and that
21 all other claims and defendants be dismissed from this action based on Plaintiff's failure to
22 state a claim upon which relief may be granted under §1983 or the Americans with Disabilities
23 Act (ADA). (ECF No. 60.) On June 23, 2016, Plaintiff filed [objections](#) to the findings and
24 recommendations. (ECF No. 68.)

25 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
26 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
27 including Plaintiff's objections, the Court finds the findings and recommendations to be
28 supported by the record and proper analysis.

1 Based on the foregoing, THE COURT HEREBY ORDERS that:

- 2 1. The Findings and Recommendations issued by the Magistrate Judge on February
3 17, 2016, are adopted in full;
- 4 2. This case now proceeds only against defendants Dr. Chen, Dr. Marchiano, and
5 Dr. Patel, on Plaintiff's claims for deliberate indifference to Plaintiff's medical
6 needs;
- 7 3. All other claims and defendants are dismissed from this action based on
8 Plaintiff's failure to state a claim;
- 9 4. Plaintiff's due process claims, equal protection claims, claims under the ADA,
10 claims for deficient appeals process, supervisory liability claims, and claims
11 under Plata are dismissed from this action based on Plaintiff's failure to state a
12 claim upon which relief may be granted;
- 13 5. Defendants Matthew Cates, J. Clark Kelso, Y. Aguila, M. Shea, M. D. Biter,
14 Sherry Lopez, Dr. O. Ogun, Dr. M. Spaeth, R. Michael Hutchinson, J. Lewis,
15 Dr. Lozovoy, and various Jane and John Does are dismissed from this action
16 based on Plaintiff's failure to state any claims against them;
- 17 6. The Clerk is directed to reflect the dismissal of all defendants except defendants
18 Chen, Patel, and Marchiano from this action on the Court's docket; and
- 19 7. This case is referred back to the Magistrate Judge for further proceedings,
20 including initiation of service of process.

21 IT IS SO ORDERED.

22 Dated: July 29, 2016

23 
24 SENIOR DISTRICT JUDGE
25
26
27
28