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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALBERT LEE HOOD,

Plaintiff,

v.

C/O CHUNA, et al.,

Defendants.

Case No. 1:13-cv-00108-LJO-BAM-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 43)

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS'
MOTION TO DISMISS

ORDER DIRECTING DEFENDANT
CHUNA TO FILE AN ANSWER

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 January 14, 2016, [findings and recommendations](#) were entered, recommending that Defendants' motion to dismiss be granted in part and denied in part. Plaintiff was provided an opportunity to file objections within thirty days. On February 5, 2016, Plaintiff filed [objections](#) to the findings and recommendations.

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. Defendants' motion to dismiss pursuant to Federal Rule of Civil Procedure
3 12(b)(6) is granted in part;
- 4 2. Defendants Zavala, Wibbles, and Taylor are dismissed from this action for
5 Plaintiff's failure to state a claim against them;
- 6 3. Plaintiff's Fifth and Ninth Amendment claims and Plaintiff's claim of being
7 thrown to the ground are dismissed;
- 8 4. This action proceeds against Defendant Chuna on Plaintiff's claim of deliberate
9 indifference to his serious medical needs; and
- 10 5. Defendant Chuna is directed to file a response to the first amended complaint
11 within thirty days of the date of service of this order.

12 IT IS SO ORDERED.

13 Dated: February 24, 2016

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