

1 Plaintiff to proceed on the cognizable Eighth Amendment claim for damages and for
2 dismissal of the remaining claims. (Id.) Plaintiff filed objections. (ECF No. 115.)
3 Defendants filed no response.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has
5 conducted a de novo review of this case. Having carefully reviewed the entire file, the
6 Court finds the findings and recommendations to be supported by the record and by
7 proper analysis, with the exception of Plaintiff's claim for injunctive relief. The Court will
8 adopt the findings and recommendations in part as explained below.

9 The Magistrate Judge recommended dismissal of Plaintiff's claim for injunctive
10 relief on the ground that it appeared that Plaintiff had transferred to another institution
11 and was no longer under the care of Defendants. (ECF No. 114 at 7.) The Magistrate
12 Judge noted that Plaintiff was housed at the California Substance Abuse Treatment
13 Facility ("CSATF") in Corcoran, California, but complained of acts that occurred at
14 Corcoran State Prison. In his objections, Plaintiff states that the events at issue occurred
15 at CSATF, where he remains housed. A review of the fourth amended complaint and the
16 docket supports Plaintiff's contention. While the complaint at times states the Defendants
17 are at "Corcoran," which may have been misconstrued as indicating Corcoran State
18 Prison, it also states that the events occurred at CSATF. Accordingly, Plaintiff's
19 allegations are sufficient at the pleading stage to state a cognizable claim for injunctive
20 relief.¹ Plaintiff will be permitted to proceed on this claim.

21 In all other respects, Plaintiff's objections do not raise an issue of fact or law
22 under the findings and recommendations.

23 Based on the foregoing, it is HEREBY ORDERED that:

- 24 1. The Court adopts in part the findings and recommendations, filed February
25 10, 2017 (ECF No. 114);

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27 ¹ To the extent Plaintiff wishes to request preliminary injunctive relief, he may file a motion seeking same.
28 The Court does not herein address Plaintiff's request that "this court . . . honor the pain management
guide/lines."

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- 2. Plaintiff shall proceed on his Eighth Amendment medical indifference claim for damages and injunctive relief against Defendants Kokor and Sunduram;
- 3. All other claims asserted in the fourth amended complaint are DISMISSED without leave to amend, and
- 4. Defendants shall file a responsive pleading or motion within fourteen days of this order.

IT IS SO ORDERED.

Dated: March 14, 2017

/s/ Lawrence J. O’Neill
UNITED STATES CHIEF DISTRICT JUDGE