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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD SANSONE,
Plaintiff,
v.
J. C. THOMAS, et al.,
Defendants.

No. 1:13-cv-01942-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 32)

Plaintiff Richard Sansone is a state prisoner proceeding *pro se* with this civil rights action filed pursuant to 42 U.S.C. § 1983. 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 November 13, 2014, plaintiff filed the currently operative first amended complaint. (Doc. No. 27.)

The court screened plaintiff's first amended complaint pursuant to 28 U.S.C. § 1915A and found that it stated cognizable claims for use of excessive force against defendants J. C. Thomas and John Doe #1. (Doc. No. 30.) On January 22, 2016, plaintiff was granted leave to either file a second amended complaint or notify the court that he was willing to proceed only on the claims found cognizable by the court in the screening order. (*Id.*) On February 4, 2016, plaintiff filed a notice informing the court that he was willing to proceed only on his Eighth Amendment excessive use of force claims against defendants Thomas and John Doe #1, found to be cognizable by the court. (Doc. No. 31.)

1 On February 5, 2016, the assigned magistrate judge issued findings and recommendations
2 recommending that this action proceed only against defendants J. C. Thomas and John Doe #1,
3 for use of excessive force, and that all other claims and defendants be dismissed from this action
4 based on plaintiff's failure to state a claim. (Doc. No. 32.) Plaintiff was provided an opportunity
5 to file objections to the findings and recommendations within twenty days. (*Id.*) No objections
6 were filed.

7 However, on March 10, 2016, the court received notice of plaintiff's change of address
8 indicating that plaintiff had been transferred to Pelican Bay State Prison. (Doc. No. 33.)
9 Accordingly, on April 5, 2016, to ensure that plaintiff received proper notice, the court reissued
10 the February 5, 2016 findings and recommendations and provided plaintiff with fourteen days
11 from that service for him to file his written objections, if any, to the findings and recommendations.
12 (Doc. No. 34.) On April 14, 2016, the Clerk of the Court received a letter from plaintiff requesting a
13 § 1983 packet and the addresses for Attorney General Jason Albert, the governor, the F.B.I., and the
14 president. (Doc. No. 35.) Plaintiff's letter also generally alleges that he is being denied access to the
15 law library, that prison officials were forcibly medicating him with medicine that he is allergic to, and
16 that the toilet in his cell does not work. (*Id.*) However, plaintiff's letter raised no objections to the
17 magistrate judge's February 5, 2016 findings and recommendations.

18 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
19 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
20 court finds the findings and recommendations to be supported by the record and proper analysis.

21 Accordingly:

- 22 1. The findings and recommendations (Doc. No. 32) issued by the assigned magistrate judge
23 on February 5, 2016, are adopted in full;
- 24 2. This action now proceeds with plaintiff's first amended complaint (Doc. No. 27), filed on
25 November 13, 2014, against defendants J. C. Thomas and John Doe #1, for use of
26 excessive force in violation of the Eighth Amendment;
- 27 3. All remaining claims and defendants are dismissed from this action;


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- 4. Plaintiff's claims for inadequate medical care under the Eighth Amendment and for violation of due process under the Fourteenth Amendment are dismissed from this action based on plaintiff's failure to state a claim upon which relief may be granted under § 1983;
- 5. Defendants Jane Doe #1 (dental assistant), John Doe #2 (correctional sergeant), John Doe #3 (appeals coordinator) and John Doe #4 (warden) are dismissed from this action based on plaintiff's failure to state any claims against them cognizable under § 1983;
- 6. The Clerk of the Court is directed to mail plaintiff a § 1983 Prisoner Complaint Form; and
- 7. This case is referred back to the assigned magistrate judge for further proceedings, including lifting the stay of discovery in this action imposed on November 13, 2014.

IT IS SO ORDERED.

Dated: May 5, 2016



UNITED STATES DISTRICT JUDGE