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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DELTON TAYLOR,  
  
                                Plaintiff,  
  
          v.  
  
HARISHKUMAR PATEL, et al.,  
  
                                Defendants.

No. 1:14-cv-01754-DAD-MJS (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO DENY  
DEFENDANTS’ MOTION FOR SUMMARY  
JUDGMENT

(Doc. No. 48, 36)

CASE TO REMAIN OPEN

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in 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.

This case proceeds against defendants Drs. Patel and Le on plaintiff’s claim for deliberate indifference to his serious medical need in violation of the Eighth Amendment based upon the defendants’ alleged denial of adequate treatment for plaintiff’s back pain. (Doc. No. 9.) On November 16, 2016, defendants filed a motion for summary judgment. (Doc. No. 36.) On August 3, 2017, the assigned magistrate judge issued findings and recommendations recommending that defendants’ motion be denied in its entirety. (Doc. No. 48.)

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1           The parties were granted fourteen days to file their objections to the findings and  
2 recommendations. Defendants filed their objections on August 7, 2017. (Doc. No. 49.) Plaintiff  
3 did not respond to those objections.

4           In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the  
5 court has 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 proper analysis.

7           Defendants object that there is no evidence before the court on summary judgment  
8 showing that Drs. Patel and Le were deliberately indifferent to plaintiff's complaints of severe  
9 back pain. (Doc. No. 49 at 2.) Defendants also contend that plaintiff's arguments instead reflect  
10 a mere difference of opinion between a prisoner and a prison medical staff regarding the  
11 appropriate medical treatment, which does not give rise to a claim for deliberate indifference. (*Id.*  
12 at 4.) Defendants' objections reiterate arguments that were already considered and properly  
13 rejected by the magistrate judge. The court adopts the magistrate judge's findings that a disputed  
14 issue of material fact exists as to whether Dr. Patel was deliberately indifferent with respect to  
15 "plaintiff's complaints of severe back pain by refusing to review his medical records, refusing to  
16 prescribe a more powerful pain medication, refusing to continue beneficial physical therapy, and  
17 in effect jumping to the conclusion that there was 'nothing wrong' with plaintiff." (Doc. No. 48  
18 at 12.) Likewise, a disputed issue of material fact exists as to whether Dr. Le was also  
19 deliberately indifferent with respect to plaintiff's complaints of severe back pain by reporting that  
20 plaintiff had no difficulty walking, stating that there was no reason for him not to be able to raise  
21 his legs higher upon physical examination, refusing to refer plaintiff to a specialist, and refusing  
22 to look at plaintiff's medical records and x-ray. (*Id.* at 8–9, 12.) These conclusions were drawn  
23 after reviewing declarations and depositions, and evidence properly submitted on summary  
24 judgment. *See* Fed. R. Civ. P. 56(c)(1)(A).

25           Accordingly, it his **HEREBY ORDERED THAT:**

- 26           1. The Findings and Recommendations filed August 3, 2017 (Doc. No. 49) are adopted  
27           in full;

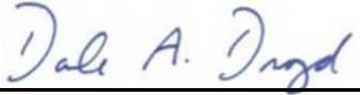
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2. Defendants' motion for summary judgment is DENIED; and
3. This action will proceed against defendants on plaintiff's Eighth Amendment inadequate medical care claims.

IT IS SO ORDERED.

Dated: September 15, 2017

  
UNITED STATES DISTRICT JUDGE