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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

EVERETT LEE MEYERS, ) Case No. 1:14-cv-01954-DAD-SAB (PC)  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) ORDER ADOPTING FINDINGS AND  
 ) RECOMMENDATION, DENYING  
 ) DEFENDANT’S MOTION TO DISMISS, AND  
 ) REFERRING MATTER BACK TO MAGISTRATE  
 ) JUDGE FOR FURTHER PROCEEDINGS  
 )  
 ) Defendant. )  
 ) (Doc. Nos. 13, 15)  
 )

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Plaintiff Everett Lee Meyers is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 31, 2015, the assigned magistrate judge filed findings and recommendations recommending that defendant’s motion to dismiss the complaint be denied. Those findings and recommendations were served on the parties and contained notice that objections thereto were to be filed within thirty days. Plaintiff filed a statement of no objection to the recommendation on September 28, 2015. Defendant Dr. Chen filed objections to the findings and recommendations on September 30, 2015.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis. In short, plaintiff has alleged sufficient facts in his first amended complaint that, if proven, would entitle him to relief on his claim

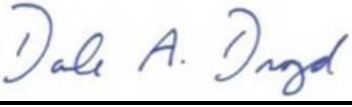
1 that defendant denied him appropriate treatment for reasons unrelated to plaintiff's medical needs.  
2 Dismissal based upon review of defendant's response to plaintiff's inmate grievance, as suggested by  
3 defendant in his objections, is not appropriate. In addition, the court cannot resolve defendant's claim  
4 of entitlement to qualified immunity without further factual development of plaintiff's claim.

5 Based on the foregoing,

- 6 1. The findings and recommendation, filed on August 31, 2015, are adopted in full;
- 7 2. Defendant's motion to dismiss the first amended complaint is DENIED; and
- 8 3. The matter is referred back to the magistrate judge for further proceedings.

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10 IT IS SO ORDERED.

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12 Dated: January 7, 2016

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14 DALE A. DROZD  
15 UNITED STATES DISTRICT JUDGE  
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