

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL J. SULLIVAN,
Plaintiff,
v.
M. D. BITER,
Defendant.

No. 1:15-cv-00243-DAD-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
DEFENDANT’S MOTION TO DISMISS

(Doc. No. 54)

Plaintiff Michael J. Sullivan is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 28, 2017, defendant moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim for relief. (Doc. No. 43.) On April 25, 2018, the assigned magistrate judge issued findings and recommendations recommending that the motion to dismiss be denied in its entirety. (Doc. No. 54.) The findings and recommendations were served on the parties and contained notice that objections were to be filed within thirty days. (*Id.* at 10–11.) No objections were filed and the deadline for doing so has passed.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the


1 court finds the findings and recommendations to be supported by the record and proper analysis.

2 Accordingly:

- 3 1. The findings and recommendations issued on April 25, 2018 (Doc. No. 54) are
4 adopted in full;
- 5 2. Defendants' motion to dismiss, filed on September 28, 2017 (Doc. No. 43) is
6 denied in its entirety;
- 7 3. This matter is referred back to the assigned magistrate judge for further
8 proceedings consistent with this order, including issuance of a discovery and
9 scheduling order.

10 IT IS SO ORDERED.

11 Dated: July 30, 2018

12 
13 _____
14 UNITED STATES DISTRICT JUDGE

15
16
17
18
19
20
21
22
23
24
25
26
27
28