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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SCOTT K. RICKS,)	1:15-cv-01148-AWI-BAM (PC)
)	
Plaintiff,)	FINDINGS AND RECOMMENDATIONS
)	RECOMMENDING DISMISSAL OF
v.)	CERTAIN CLAIMS AND DEFENDANTS
)	
O. ONYEJE, et al.,)	FOURTEEN-DAY DEADLINE
)	
Defendants.)	
)	
)	
)	

FINDINGS AND RECOMMENDATIONS

Plaintiff Scott K. Ricks (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on May 8, 2015. On November 30, 2016, District Judge Anthony Ishii ordered this action to be related to Scott v. Austria, et al., 1:15-cv-1147-AWI-BAM. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302

On November 4, 2016, the Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and found that it stated a cognizable claim against Defendants Onyeje and Navarro for deliberate indifference to serious medical needs in violation of the Eighth Amendment. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). Plaintiff was ordered to either file an amended complaint or notify the Court that he was willing to proceed only on the cognizable claim. (ECF No. 22.)

1 On November 23, 2016, Plaintiff notified the Court that he did not intend to file an
2 amended complaint and wished to proceed only with the cognizable claim against Defendants
3 Onyeje and Navarro. (ECF No. 23.) Therefore, the Court will recommend that this case proceed
4 only on Plaintiff's claim against Defendants Onyeje and Navarro for deliberate indifference to
5 serious medical needs in violation of the Eighth Amendment, and that all other claims and
6 defendants be dismissed, for the reasons explained in the November 4, 2016 screening order.
7 See Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2007) (court should identify the deficiencies
8 in the complaint and grant Plaintiff opportunity to cure deficiencies prior to dismissal).

9 Accordingly, IT IS HEREBY RECOMMENDED that:

10 1. This action proceed on Plaintiff's claim against Defendants Onyeje and Navarro
11 for deliberate indifference to serious medical needs in violation of the Eighth Amendment; and

12 2. All other claims and defendants be dismissed for failure to state a claim upon
13 which relief could be granted.

14 These findings and recommendations will be submitted to the United States District
15 Judge assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within
16 **fourteen (14) days** after being served with these Finding and Recommendations, Plaintiff may
17 file written objections with the Court. The document should be captioned "Objections to
18 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
19 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d
20 834, 838-39 (9th Cir. 2014)(citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

21
22 IT IS SO ORDERED.

23 Dated: December 5, 2016

24 /s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE
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