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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO MOLINA,
Plaintiff,
v.
K. HOLLAND, et al.,
Defendants.

No. 1:15-cv-01260-DAD-EPG
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS
(Doc. No. 73)

Plaintiff Mario Molina is a prisoner proceeding pro se and *in forma pauperis* in this civil rights action 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 September 2, 2015, plaintiff consented to magistrate judge jurisdiction under 28 U.S.C. § 636(c). (Doc. No. 8.) Defendants declined to consent to magistrate judge jurisdiction. (Doc. No. 49.)

The assigned magistrate judge screened plaintiff’s complaint before any defendants appeared. (Doc. Nos. 28, 32). On February 1, 2017, plaintiff filed notice with the court that he was willing to proceed only on the claims found to be cognizable by the magistrate judge in the screening order. (Doc. No. 29.) Therefore, in an order issued February 7, 2017, the magistrate judge found that plaintiff had stated a cognizable claims against defendant Rivera for excessive use of force in violation of the Eighth Amendment, against defendants Rivera and Stanley for deliberate indifference to serious medical needs in violation of the Eighth Amendment, and

1 against defendants Rivera, Stanley, Holland, Gutierrez, and Jones for retaliation in violation of
2 the First Amendment, and dismissed all other claims and defendants. (Doc. No. 32.)

3 However, on November 9, 2017, the Ninth Circuit Court of Appeals held that 28 U.S.C.
4 § 636(c)(1) requires the consent of all named plaintiffs and defendants, even those not served
5 with process, before jurisdiction may vest in a magistrate judge to dispose of a civil case.
6 *Williams v. King*, 875 F.3d 500, 504 (9th Cir. 2017). Accordingly, the magistrate judge did not
7 have jurisdiction to dismiss the above-described claim by way of the February 7, 2017 order. In
8 light of the *Williams* decision, on December 7, 2017, the magistrate judge entered findings and
9 recommendations, recommending that all claims and defendants, except for plaintiff's claims
10 against defendant Rivera for excessive use of force in violation of the Eighth Amendment, against
11 defendants Rivera and Stanley for deliberate indifference to serious medical needs in violation of
12 the Eighth Amendment, and against defendants Rivera, Stanley, Holland, Gutierrez, and Jones for
13 retaliation in violation of the First Amendment, be dismissed. (Doc. No. 73 at 13.) Those
14 findings and recommendations were served on the parties and contained notice that any
15 objections thereto were to be filed within fourteen days. No objections were filed.

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

19 Accordingly,

- 20 1. The findings and recommendations issued by the magistrate judge on December 7, 2017,
21 are adopted in full;
- 22 2. All claims and defendants, except for plaintiff's claims against defendant Rivera for
23 excessive use of force in violation of the Eighth Amendment, against defendants Rivera
24 and Stanley for deliberate indifference to serious medical needs in violation of the Eighth

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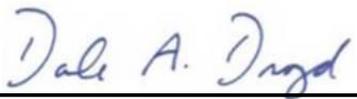
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Amendment, and against defendants Rivera, Stanley, Holland, Gutierrez, and Jones for retaliation in violation of the First Amendment, are dismissed; and

3. This case is referred back to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: January 9, 2018


UNITED STATES DISTRICT JUDGE