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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELAINE K. VILLAREAL,
Plaintiff,
v.
COUNTY OF FRESNO and MARGARET
MIMS,
Defendants.

No. 1:15-cv-01410-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 112, 142)

Plaintiff Elaine Villareal is a former prisoner proceeding *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now proceeds on plaintiff's claims against defendants County of Fresno and Margaret Mims based on conditions of confinement. (Doc. No. 95.) 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 June 1, 2018, defendants moved to dismiss the operative complaint. (Doc. No. 112.) On January 30, 2019, the assigned magistrate judge issued findings and recommendations, recommending that the motion to dismiss be granted in part and denied in part. (Doc. No. 142.) The findings and recommendations were served on the parties and contained notice that any objections were to be filed within fourteen days after service. (*Id.* at 13.) To date, neither party has filed objections, and the time in which to do so has now passed.

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

4 Accordingly,

- 5 1. The findings and recommendations issued on January 30, 2019 (Doc. No. 142) are
6 adopted in full;
- 7 2. Defendants' motion to dismiss plaintiff's first amended complaint (Doc. No. 112),
8 or alternatively to strike certain portions thereof, is granted in part and denied in
9 part, as follows:
 - 10 a. This case will proceed on plaintiff's conditions of confinement claim based on
11 the allegedly dilapidated and decaying condition of the Fresno County South
12 Annex Jail, including alleged conditions such as mold, fungus, crumbling
13 walls, exposed metal, (potentially) asbestos, and an insect infestation;
 - 14 b. This case will also proceed on plaintiff's conditions of confinement claim
15 based on the alleged lack of access to outdoor exercise;
 - 16 c. Plaintiff's conditions of confinement claim based on a lack of programming is
17 dismissed;
 - 18 d. Plaintiff's conditions of confinement claim based on a lack of contact visits is
19 dismissed; and
 - 20 e. Defendant's motion to dismiss or strike plaintiff's request for punitive
21 damages is denied.

22 IT IS SO ORDERED.

23 Dated: February 25, 2019

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26 UNITED STATES DISTRICT JUDGE
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