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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAMUEL A. ACINELLI,
Plaintiff,

vs.

ULYSSES VILLAMIL BANIGA, et al.,
Defendant.

Old Case No. 1:15-cv-01616 AWI-JDP (PC)
New Case No. 1:15-cv-1616 JDP (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS NON-
COGNIZABLE CLAIMS AND ORDER
REASSINGING MATTER DUE TO
CONSENTS

(ECF No. 30)

Samuel A. Acinelli (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with 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 April 9, 2018, the Magistrate Judge entered findings and recommendations that this case proceed on Plaintiff’s cognizable claim against Defendants Baniga and Hill for violation of the Eighth Amendment and against Defendant Baniga for negligent infliction of emotional distress, ordinary negligence, and medical malpractice. (ECF No. 30 at 16.) The Magistrate Judge further recommended that all other claims and all other defendants be dismissed with prejudice. (Id.) The parties were provided an opportunity to file objections to the findings and recommendations. No objections were filed.

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

1 Additionally, the Plaintiff and the remaining Defendants have each consented to
2 Magistrate Judge jurisdiction over this case. See Doc. Nos. 4, 19. Because all parties to this
3 action have voluntarily consented to have a Magistrate Judge conduct any and all further
4 proceedings in the case, including the trial and entry of a final judgment, it is appropriate to
5 reassign this matter to the Magistrate Judge.

6
7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations issued by the Magistrate Judge on April 9, 2018,
9 (ECF No. 30), are ADOPTED in full;
- 10 2. This case shall proceed on Plaintiff's cognizable claim against Defendants
11 Baniga and Hill for violation of the Eighth Amendment and against
12 Defendant Baniga for negligent infliction of emotional distress, ordinary
13 negligence, and medical malpractice;
- 14 3. All other claims and all other defendants are dismissed with prejudice;
- 15 4. This action is assigned to United States Magistrate Jeremy D. Peterson for all
16 purposes within the meaning of 28 U.S.C. § 636(c), to conduct any and all further
17 proceedings in the case, including the trial and entry of final judgment;
- 18 5. The Clerk of the Court is directed to assign this action in its entirety to Magistrate
19 Judge Jeremy D. Peterson;
- 20 6. Any future hearing dates set before the undersigned are VACATED and
21 REASSIGNED to the calendar of Magistrate Judge Jeremy D. Peterson; and
- 22 7. The new case number for this matter shall be 1:15-cv-1616 JDP (PC), and the
23 parties shall use case number 1:15-cv-1616 JDP (PC) in all further filings.

24
25 IT IS SO ORDERED.

26 Dated: June 8, 2018


27 SENIOR DISTRICT JUDGE
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