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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JASON SMITH,  
Plaintiff,  
v.  
DR. JOHAL, et al.,  
Defendants.

**CASE No. 1:15-cv-01662-LJO-MJS (PC)**  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATION TO DISMISS  
ACTION FOR FAILURE TO STATE A  
CLAIM**  
**(ECF NO. 21)**  
**DISMISSAL COUNTS AS A STRIKE  
PURSUANT TO 28 U.S.C. § 1915(g)**  
**CLERK TO TERMINATE ALL PENDING  
MOTIONS AND CLOSE CASE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought 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 of the United States District Court for the Eastern District of California.

On November 1, 2016, the Magistrate Judge issued findings and a recommendation to dismiss the action with prejudice for failure to state a claim. (ECF No. 21.) Plaintiff filed objections. (ECF No. 24.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the

1 Court finds the findings and recommendation to be supported by the record and by  
2 proper analysis. Plaintiff's objections allege at most a claim of medical malpractice. They  
3 do not raise an issue of fact or law under the findings and recommendation.

4 Accordingly, it is HEREBY ORDERED that:

- 5 1. The Court adopts the November 1, 2016 findings and recommendation  
6 (ECF No. 21) in full;
- 7 2. The action is DISMISSED with prejudice for failure to state a claim;
- 8 3. Dismissal counts as a strike pursuant to the "three strikes" provision set  
9 forth in 28 U.S.C. § 1915(g); and
- 10 4. The Clerk of the Court shall terminate all pending motions and close the  
11 case.

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13 IT IS SO ORDERED.

14 Dated: January 19, 2017

/s/ Lawrence J. O'Neill  
UNITED STATES CHIEF DISTRICT JUDGE

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