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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODERICK WILLIAM LEAR,  
Plaintiff,  
v.  
JOHNATHAN AKANNO, et al.,  
Defendants.

No. 1:15-cv-01903-DAD-MJS

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 47)

Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action filed 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 May 8, 2017, the assigned magistrate judge screened plaintiff's second amended complaint (Doc. No. 31) and found that it stated cognizable Eighth Amendment claims against defendants Akanno and Palomino. (Doc. No. 33.) The remaining claims and defendants were dismissed by the magistrate judge with prejudice for failure to state a claim. (*Id.*)

On December 5, 2017, the magistrate judge re-screened plaintiff's complaint, recognizing that a recent Ninth Circuit opinion, *Williams v. King*, 875 F.3d 500 (9th Cir. 2017), had held that a magistrate judge does not have jurisdiction to dismiss claims with prejudice absent the consent of all parties, even if the plaintiff has consented to magistrate judge jurisdiction, as plaintiff had.

1 (Doc. No. 47.) Concurrently, the magistrate judge issued findings and recommendations  
2 recommending that the undersigned dismiss the claims found to be non-cognizable. (*Id.*) The  
3 parties were given fourteen days to file objections to those findings and recommendations.  
4 Plaintiff filed a notice accepting the findings and recommendations on December 28, 2017. (Doc.  
5 No. 49.) No objections were filed and the time for doing so has passed.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the  
7 undersigned has conducted a *de novo* review of plaintiff's case. Having carefully reviewed the  
8 entire file, the undersigned concludes the findings and recommendations are supported by the  
9 record and by proper analysis.

10 Accordingly:

- 11 1. The findings and recommendations issued December 5, 2017 (Doc. No. 47) are adopted in  
12 full;
- 13 2. This action shall continue to proceed only on plaintiff's Eighth Amendment claims against  
14 defendants Akanno and Palomino; and
- 15 3. All other claims and defendants are dismissed with prejudice.

16 IT IS SO ORDERED.

17 Dated: January 11, 2018

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20 UNITED STATES DISTRICT JUDGE  
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