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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REYNALDO SOLORZANO,

Plaintiff,

v.

S. FRAUENHEIM, et al.,

Defendants.

Case No. 1:16-cv-00314-LJO-SAB-PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS AND DEFENDANTS

FOURTEEN (14) DAY DEADLINE

Plaintiff Reynaldo Solorzano is a state prisoner proceeding pro se and in forma pauperis pursuant to 42 U.S.C. § 1983. This 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 5, 2017, the Court screened Plaintiff’s first amended complaint and found that it stated a cognizable claim for damages against Does A, B, C, and D for failure to protect in violation of the Eighth Amendment, but no other cognizable claims. (ECF No. 11.) Plaintiff was ordered to amend his complaint to attempt to cure the deficiencies identified by the Court in that order, or notify the Court that he is agreeable to proceeding only on the claims identified as cognizable. (Id. at p. 12.)

On June 21, 2017, Plaintiff sought an extension of time to comply with the Court’s order. (ECF No. 12.) On June 22, 2017, that extension of time was granted.

1 On July 17, 2017, Plaintiff notified the Court that he will not amend his complaint, and
2 agrees to proceed only on the claims found to be cognizable in the Court's June 5, 2017
3 screening order. (ECF No. 15.) As a result, the Court will recommend that Defendants S.
4 Frauenheim, Walker, R. Walker, J. Guerra, A. Florez, R. Rojas, Dr. J. Chokatos, and P.A
5 Fortune be dismissed from this action, and that it only proceed on the claims identified above for
6 the reasons stated in the Court's June 5, 2017 screening order. Fed. R. Civ. P. 8(a); Ashcroft v.
7 Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007);
8 Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010).

9 The Court will also issue a separate order regarding Plaintiff's responsibility to amend his
10 complaint to identify the Doe defendants named in this action.

11 Accordingly, it is HEREBY RECOMMENDED that:

- 12 1. This action only proceed on Plaintiff's claim against Does A, B, C, and D for
13 failure to protect in violation of the Eighth Amendment; and
- 14 2. All other claims and defendants be dismissed for failure to state a claim upon
15 which relief could be granted.

16 These findings and recommendations will be submitted to the United States District
17 Judge assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within
18 **fourteen (14) days** after being served with these Finding and Recommendations, Plaintiff may
19 file written objections with the Court. The document should be captioned "Objections to
20 Findings and Recommendations."

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1 Plaintiff is advised that failure to file objections within the specified time may result in
2 the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d 834, 838-39 (9th Cir. 2014)
3 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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5 IT IS SO ORDERED.

6 Dated: July 19, 2017


UNITED STATES MAGISTRATE JUDGE

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