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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ARCHIE CRANFORD,

12 Plaintiff,

13 vs.

14 TINA M. ADAMS, et al.,

15 Defendants.
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1:16-cv-00783-AWI-GSA-PC

FINDINGS AND RECOMMENDATIONS
TO DISMISS CLAIMS AND
DEFENDANTS, CONSISTENT WITH
MAGISTRATE JUDGE'S PRIOR ORDER
IN LIGHT OF WILLIAMS DECISION,
AND TO ASSIGN CASE TO
MAGISTRATE JUDGE FOR ALL
FURTHER PROCEEDINGS

(ECF NO. 11.)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN (14) DAYS

23 **I. BACKGROUND**

24 Archie Cranford ("Plaintiff") is a civil detainee proceeding *pro se* and *in forma*
25 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds
26 with Plaintiff's original Complaint, filed on June 6, 2016, against defendant Dunu Eyiuche
27 (RN) ("Defendant") for violation of equal protection under the Fourteenth Amendment. (ECF
28 No. 1.)

1 Plaintiff and Defendant Eyiuche have both consented to magistrate judge jurisdiction.
2 (ECF Nos. 5, 28.) However, the magistrate judge previously screened Plaintiff's Complaint
3 before any defendants appeared. On March 16, 2017, the magistrate judge issued a [screening](#)
4 [order](#) finding that Plaintiff stated a cognizable due process claim against Defendant Eyiuche,
5 but no other claims against any of the Defendants. (ECF No. 9.) The court's order required
6 Plaintiff to either file an amended complaint or notify the court of his willingness to proceed
7 only against Defendant Eyiuche for violation of equal protection under the Fourteenth
8 Amendment. (Id.) On March 24, 2017, Plaintiff filed a [notice](#) that he is willing to proceed
9 only on the equal protection claim against Defendant Eyiuche. (ECF No. 10.)

10 Based on Plaintiff's representations in the March 24, 2017, notice, the magistrate judge
11 issued an [order](#) on March 30, 2017, for this case to proceed only against Defendant Eyiuche for
12 violation of equal protection, and dismissing all remaining claims and defendants. (ECF No.
13 11.) In the order, the magistrate judge dismissed Defendants Tina M. Adams, (Psych Tech),
14 Jessica C. (Psych Tech), Patient V. (Psych Tech), and Barbara Niewesas from this action, for
15 Plaintiff's failure to state any claims against them. (Id.) The magistrate judge also dismissed
16 Plaintiff's claims based on inadequate medical care and right to privacy, for Plaintiff's failure
17 to state a claim. (Id.)¹

18 As described below, in light of Ninth Circuit authority, this court is recommending that
19 the assigned district judge dismiss defendants Tina M. Adams, (Psych Tech), Jessica C. (Psych
20 Tech), Patient V. (Psych Tech), and Barbara Niewesas from this action, and dismiss Plaintiff's
21 claims based on inadequate medical care and right to privacy from this action, for Plaintiff's
22 failure to state a claim under § 1983, consistent with the March 30, 2017, order by the
23 magistrate judge.

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26 ¹ Subsequently, Defendant Eyiuche was served with process and on June 26, 2017, appeared in this
27 action. (ECF Nos. 13, 14.) On November 20, 2017, Defendant Eyiuche consented to magistrate judge
28 jurisdiction. (ECF No. 28.) On December 6, 2017, District Judge Anthony W. Ishii was assigned to this case for
the purpose of entering these findings and recommendations. (ECF No. 32.)

1 **II. WILLIAMS V. KING**

2 On November 9, 2017, the United States Court of Appeals for the Ninth Circuit held
3 that a magistrate judge lacked jurisdiction to dismiss a prisoner’s case for failure to state a
4 claim at the screening stage where the Plaintiff had consented to magistrate judge jurisdiction
5 and Defendants had not yet been served. Williams v. King, 875 F.3d 500 (9th Cir. 2017).
6 Specifically, the Ninth Circuit held that “28 U.S.C. § 636(c)(1) requires the consent of all
7 plaintiffs and defendants named in the complaint—irrespective of service of process—before
8 jurisdiction may vest in a magistrate judge to hear and decide a civil case that a district court
9 would otherwise hear.” Id. at 501.

10 Here, Defendant Eyiuche was not served at the time the court issued its order
11 dismissing claims and defendants, and therefore had not appeared or consented to magistrate
12 judge jurisdiction. Accordingly, the magistrate judge lacked jurisdiction to dismiss Plaintiff’s
13 claims and defendants based solely on Plaintiff’s consent.

14 In light of the holding in Williams, this court will recommend to the assigned district
15 judge that he dismiss the claims and defendants previously dismissed by this court, for the
16 reasons provided in the court’s March 30, 2017, order, and then assign the case to Magistrate
17 Judge Gary S. Austin under 28 U.S.C. § 636(c), to conduct any and all further proceedings in
18 the case, including the trial and entry of final judgment.

19 **III. CONCLUSION AND RECOMMENDATIONS**

20 The court finds that this case should proceed only against Defendant Eyiuche for
21 violation of equal protection, and all other claims and defendants should be dismissed based on
22 Plaintiff’s failure to state a claim, for the reasons provided in the court’s March 30, 2017, order.

23 The court also finds that because Plaintiff and Defendant Eyiuche have both consented
24 to magistrate judge jurisdiction, this case should be assigned to Magistrate Judge Gary S.
25 Austin for all purposes within the meaning of 28 U.S.C. § 636(c).

26 Therefore, for the reasons set forth above, **IT IS HEREBY RECOMMENDED** that:

- 27 1. In light of the holding in Williams, the district judge dismiss the claims and
28 defendants previously dismissed by the magistrate judge on March 30, 2017;

- 1 2. This case now proceed with Plaintiff's Complaint, filed on June 6, 2016, against
2 sole defendant Eyiuche for violation of equal protection under the Fourteenth
3 Amendment;
- 4 3. All other claims and defendants be dismissed from this action for failure to state
5 a claim under § 1983 upon which relief may be granted, for the reasons provided
6 in the magistrate judge's March 30, 2017, order;
- 7 4. Defendants Tina M. Adams, (Psych Tech), Jessica C. (Psych Tech), Patient V.
8 (Psych Tech), and Barbara Niewesas be dismissed from this action for Plaintiff's
9 failure to state any claims under § 1983 against them upon which relief may be
10 granted;
- 11 5. Plaintiff's claims based on inadequate medical care and right to privacy be
12 dismissed from this action based on Plaintiff's failure to state a claim;
- 13 6. It appearing that all parties to this action have voluntarily consented to have a
14 magistrate judge conduct any and all further proceedings in the case, this action
15 be assigned to United States Magistrate Judge Gary S. Austin for all purposes
16 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;²
- 18 7. The Clerk of the Court be directed to assign this action in its entirety to
19 Magistrate Judge Gary S. Austin; and
- 20 8. The new case number be: **1:16-cv-00783-GSA-PC.**

21 These findings and recommendations are submitted to the United States District Judge
22 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
23 (14) days of the date of service of these findings and recommendations, any party may file
24 written objections with the court. Such a document should be captioned "Objections to
25 _____

26 ² Consent to a magistrate judge does not entitle the parties to a particular
27 magistrate judge, and the court may reassign this case to a different magistrate judge during the
28 course of the litigation, without advance notice to the parties. *Wilhelm v. Rotman*, 680 F.3d
1113, 1118-1119 (9th Cir. 2012) ("consent" option covers "a" magistrate judge generally).

1 Magistrate Judge’s Findings and Recommendations.” Any reply to the objections shall be
2 served and filed within seven (7) days after service of the objections. The parties are advised
3 that failure to file objections within the specified time may result in the waiver of rights on
4 appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan,
5 923 F.2d 1391, 1394 (9th Cir. 1991)).

6
7 IT IS SO ORDERED.

8 Dated: December 13, 2017

/s/ Gary S. Austin
9 UNITED STATES MAGISTRATE JUDGE