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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RONALD TIMBERLAND,
Plaintiff,
vs.
G. MASCARENAS, et al.,
Defendants.

1:16-cv-00922-LJO-GSA-PC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 28.)**

**ORDER FOR THIS CASE TO PROCEED
AGAINST DEFENDANT MASCARENAS
FOR FAILURE TO PROTECT PLAINTIFF,
AND DISMISSING ALL OTHER CLAIMS
AND DEFENDANTS FROM THIS CASE
(ECF No. 26.)**

I. BACKGROUND

Ronald Timberland (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with 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.

On September 10, 2018, the court entered [findings and recommendations](#), recommending that this action proceed only against defendant Mascarenas for failure to protect Plaintiff, and that all other claims and defendants be dismissed from this action based on Plaintiff=s failure to state a claim. (ECF No. 28.) On September 21, 2018, Plaintiff filed [objections](#) to the findings and recommendations. (ECF No. 29.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
2 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
3 including Plaintiff's objections, the court finds the findings and recommendations to be supported
4 by the record and proper analysis.

5 **III. CONCLUSION**

6 Accordingly, THE COURT HEREBY ORDERS that:

- 7 1. The findings and recommendations issued by the Magistrate Judge on September
8 10, 2018, are ADOPTED in full;
- 9 2. This action now proceeds with Plaintiff's Second Amended Complaint, filed on
10 June 20, 2018, against defendant G. Mascarenas (Correctional Counselor I) for
11 failure to protect Plaintiff, in violation of the Eighth Amendment;
- 12 3. All other claims and defendants are dismissed from this case for failure to state a
13 claim upon which relief may be granted under § 1983;
- 14 4. Defendants D. Patterson (CCI), A. Maxfield (CCII), and M. Sexton (Chief Deputy
15 Warden) are dismissed from this case for Plaintiff's failure to state any claims
16 against them under § 1983;
- 17 4. Plaintiff's claims for due process concerning the May 5, 2015 Classification
18 Committee hearing, due process based on the handling of prison appeals, and
19 enforcement of the Ashker settlement agreement are dismissed from this case
20 based on Plaintiff's failure to state a claim under § 1983; and
- 21 5. This case is referred back to the Magistrate Judge for further proceedings,
22 including initiation of service of process.

23 **IT IS SO ORDERED**
24 **Dated: October 12, 2018**

25 /s/ Lawrence J. O'Neill
26 **United States Chief District Judge**