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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANGEE BURRELL,
Plaintiff,

v.

RUSLAN LOZOVOY, et al.,
Defendants.

Case No. 1:16-cv-01118-SAB (PC)

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS AND DEFENDANTS

(ECF Nos. 24, 25)

FOURTEEN-DAY DEADLINE

Plaintiff Angee Burrell is a state prisoner appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On November 22, 2017, the Court screened Plaintiff’s second amended complaint and found that it stated a cognizable claim for deliberate indifference to a serious medical need in violation of the Eighth Amendment Defendants Lozovoy and Sao, and for retaliation in violation of the First Amendment against Defendant Sao, but no other cognizable claims. (ECF No. 24.) Plaintiff was granted an opportunity to amend his complaint, or notify the Court that he is agreeable to proceeding only on the claims identified as cognizable. (Id. at p. 11-12.)

On December 1, 2017, Plaintiff notified the Court that he will not amend his complaint, and agrees to proceed only on the claims found to be cognizable in the Court’s November 22, 2017 screening order. (ECF No. 25.) As a result, the Court will recommend that this action only

1 proceed on the claims identified above, and all other claims and defendants be dismissed for the
2 reasons stated in the Court's November 22, 2017 screening order. Fed. R. Civ. P. 8(a); Ashcroft
3 v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007);
4 Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010).

5 Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a
6 district judge to this action.

7 Furthermore, it is HEREBY RECOMMENDED that:

- 8 1. This action proceed on Plaintiff's claim for deliberate indifference to a serious
9 medical need in violation of the Eighth Amendment Defendants Lozovoy and
10 Sao, and for retaliation in violation of the First Amendment against, Defendant
11 Sao; and
- 12 2. All other claims and defendants be dismissed for failure to state a claim upon
13 which relief could be granted consistent with the Court November 22, 2017 order.

14 These findings and recommendations will be submitted to the United States District
15 Judge assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within
16 **fourteen (14) days** after being served with these Finding and Recommendations, Plaintiff may
17 file written objections with the Court. The document should be captioned "Objections to
18 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
19 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d
20 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

21 IT IS SO ORDERED.

22 Dated: December 7, 2017

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25 UNITED STATES MAGISTRATE JUDGE
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