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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

SAM CONSIGLIO, JR.,  
Plaintiff,  
v.  
EDMUND G. BROWN, et al.,  
Defendants.

Case No. 1:16-cv-01268-AWI-SAB (PC)  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING  
CERTAIN CLAIMS AND DEFENDANTS  
FOR THE FAILURE TO STATE A CLAIM  
(ECF No. 10)

Plaintiff Sam Consiglio, Jr. is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action 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 May 1, 2017, the assigned Magistrate Judge issued findings and recommendations that this matter proceed only on Plaintiff’s claims against Defendants Edmund Brown, Pamela Ahlin, and Audrey King, that the prohibitions in 9 C.C.R. § 891 (“Section 891”) and 9 C.C.R. § 4350 amount to punishment under the Fourteenth Amendment.<sup>1</sup> (ECF No. 8.) The Magistrate

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<sup>1</sup> Plaintiff pleaded that Section 891 prohibits non-LPS patients, such as sexually violent predators (“SVP”), from having any access to the internet, and that Section 4350 prohibits all patients in the custody of state hospitals from possessing any electronic devices with wireless capabilities, including but not limited to cell phones, computers, PDAs, electronic gaming devices, and graphing calculators with internet capabilities. Plaintiff further pleaded that he is a civil detainee being held at Coalinga State Hospital as a SVP, according to California’s Sexually Violent Predator Act, Cal. Welf. & Instit. Code §§ 6600 et seq.

1 Judge further found that all other claims and defendants should be dismissed for the failure to  
2 state a cognizable claim for relief. Plaintiff was directed to file his objections to those findings  
3 and recommendations within fourteen days. That deadline has passed, and no objections have  
4 been filed.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the  
6 Court has conducted a *de novo* review of Plaintiff's request. The Court finds the findings and  
7 recommendations to be supported by the record and by proper analysis.

8 Accordingly, it is HEREBY ORDERED that:

9 1. The findings and recommendations filed on May 1, 2017 (ECF No. 10) are  
10 ADOPTED in full;

11 2. This action shall proceed against Defendants Edmund Brown, Governor of the  
12 State of California, Pamela Ahlin, Director of the California Department of State Hospitals, and  
13 Audrey King, Director of CSH, on Plaintiff's claim that the prohibitions in 9 C.C.R. § 891 and 9  
14 C.C.R. § 4350 amount to punishment under the Fourteenth Amendment;

15 3. Defendants Jeffrey Beard, Lopez, Dr. Ismail Patel, and Dr. Kongara Nanditha,  
16 and all other claims, are hereby dismissed for the failure to state a cognizable claim upon which  
17 relief may be granted;

18 4. The Clerk of the Court is directed to update the docket and caption to reflect the  
19 foregoing; and

20 5. This matter is referred back to the assigned Magistrate Judge for further  
21 proceedings consistent with this order.

22 IT IS SO ORDERED.

23 Dated: June 27, 2017

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25 SENIOR DISTRICT JUDGE