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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO MARTINEZ,

Plaintiff,

v.

THREE UNKNOWN GUARDS OF
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

No. 1:16-cv-01467-DAD-BAM

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 24)

Plaintiff Antonio Martinez is a state prisoner 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 June 15, 2018, the assigned magistrate judge issued findings and recommendations, recommending that this action proceed only on plaintiff’s second amended complaint against receiving and release officer Doe 3 and registered nurse F. Rojas for deliberate indifference in violation of the Eighth Amendment. (Doc. No. 24.) The magistrate judge further recommended that the court dismiss all other Doe defendants due to plaintiff’s failure to state a cognizable claim against them, and that plaintiff’s state law claims be dismissed, without prejudice. (*Id.*) The findings and recommendations were served on plaintiff and contained notice that any objections

1 were to be filed within fourteen days after service. (*Id.* at 9.) Although plaintiff sought and
2 received an extension of time in which to file objections (Doc. Nos. 25, 26), no objections to the
3 findings and recommendations have been filed, and the time in which to do so has now passed.

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

7 Accordingly,

- 8 1. The findings and recommendations issued on June 15, 2018 (Doc. No. 24) are
9 adopted in full;
- 10 2. This action proceeds only on plaintiff's claim against receiving and release officer
11 Doe 3 and registered nurse F. Rojas for deliberate indifference in violation of the
12 Eighth Amendment;
- 13 3. Transportation officer Doe 1, transportation officer Doe 2, and Does 4-10 are
14 dismissed due to plaintiff's failure to state a cognizable claim against them;
- 15 4. Plaintiff's state law claims are dismissed, without prejudice; and
- 16 5. This matter is referred back to the assigned magistrate judge for further
17 proceedings consistent with this order, including issuance of service of process.

18 IT IS SO ORDERED.

19 Dated: October 15, 2018

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22 UNITED STATES DISTRICT JUDGE
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