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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO AMADOR GONZALEZ,

Plaintiff,

v.

DR. SCHARFFENBERG and R.N. S.
SOTO,

Defendants.

No. 1:16-cv-01675-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, GRANTING
DEFENDANTS' MOTION TO STRIKE, AND
DENYING PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

(Doc. Nos. 86, 100, 108)

Plaintiff Mario Gonzalez is a state prisoner proceeding *pro se* and *in forma pauperis* in 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 January 5, 2018, plaintiff filed a motion for a preliminary injunction. (Doc. No. 86.) On March 13, 2018, the assigned magistrate judge entered findings and recommendations, recommending that plaintiff's motion for a preliminary injunction be denied because it was unrelated to his claims and sought relief against non-parties over whom the court does not have jurisdiction. (Doc. No. 100.)

Plaintiff was provided an opportunity to file objections to the findings and recommendations. (*Id.*) On April 2, 2018, plaintiff filed objections. (Doc. No. 106.) Among other objections, plaintiff accused defense counsel, counsel's supervisors, and the Office of the

1 Attorney General (“OAG”) of orchestrating the alleged denial of medical care to retaliate against
2 plaintiff and discourage other inmates from filing lawsuits. (*Id.* at 3–4.) On April 6, 2018,
3 defendants filed a motion to strike plaintiff’s objections, on the grounds that they were improper
4 and defamatory. (Doc. No. 108.)

5 On April 9, 2018, the magistrate judge issued an order instructing plaintiff that he had
6 twenty-one days after the date of service of defendants’ motion to strike to file and serve his
7 opposition to the motion. (Doc. No. 110.) That order further directed plaintiff to submit evidence
8 in support of his allegations that defense counsel and his supervisors were intentionally causing
9 him to be denied needed medical care, if he intended to oppose the motion to strike. (*Id.*)
10 Plaintiff was warned that if he did not file evidence, the motion to strike would be granted. (*Id.*)
11 On April 24, 2018, plaintiff filed his opposition to the motion to strike. (Doc. No. 114.) On April
12 30, 2018, defendants filed their reply. (Doc. No. 115.)

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

16 Unsurprisingly, plaintiff failed to submit any evidence that defense counsel or his
17 supervisors were involved in the alleged denial of necessary medical care. Rather, plaintiff states
18 only that he “strongly believes” that the OAG is in active concert or participation with
19 defendants, while conceding that defense counsel may not be aware of the alleged retaliation.
20 (Doc. No. 114 at 3.) Accordingly, the court will strike plaintiff’s objections to the March 13,
21 2018 findings and recommendations.

22 Moreover, even if the court were to consider plaintiff’s objections, they would provide no
23 basis for questioning the magistrate judge’s recommendation that plaintiff’s motion for
24 preliminary injunction should be denied. As the magistrate judge found, plaintiff’s injunction
25 request is aimed at persons who are not defendants in this case, and the incidents described in the
26 injunction request are unrelated to the incidents alleged in this case. (Doc. No. 100 at 4.)

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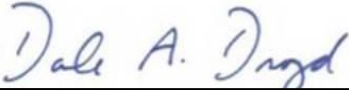
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Accordingly, the court HEREBY ORDERS that:

1. The findings and recommendations issued by the magistrate judge on March 13, 2018 (Doc. No. 100) are ADOPTED in full;
2. Defendants' motion to strike (Doc. No. 108) is GRANTED; and
3. Plaintiff's motion for a preliminary injunction (Doc. No. 86) is DENIED.

IT IS SO ORDERED.

Dated: July 18, 2018



UNITED STATES DISTRICT JUDGE