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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LENDWARD ALTON MIXON, JR.,  
Plaintiff,  
v.  
H. TYSON, et al.,  
Defendants.

No. 1:16-cv-01868-DAD-BAM

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 16)

Plaintiff Lendward Alton Mixon, Jr. (“plaintiff”) is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 22, 2017, the assigned magistrate judge issued findings and recommendations recommending that this action proceed against defendants Jiminez and Metts for deliberate indifference to plaintiff’s serious medical needs in violation of the Eighth Amendment, that plaintiff’s requests for injunctive and declaratory relief be denied, and that all other claims and defendants be dismissed from this action. (Doc. No. 16) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*) Plaintiff timely filed objections which were mailed on January 8, 2018, and docketed by the court on January 16, 2018. (Doc. No. 17.)

1 Therein, plaintiff objects to dismissal of the defendant Commissioner, but fails to point to any  
2 facts alleged in his complaint showing that the Commissioner “participated in or directed the  
3 violations, or knew of the violations and failed to act to prevent them.” *Taylor v. List*, 880 F.2d  
4 1040, 1045 (9th Cir. 1989). As explained in the magistrate judge’s findings and  
5 recommendations, liability under 42 U.S.C. § 1983 may not be imposed on supervisory personnel  
6 for the actions or omissions of their subordinates under the theory of *respondeat superior*, and  
7 may only be imposed if the supervisory personnel personally violated a constitutional right.  
8 (Doc. No. 16 at 4.)

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
10 de novo review of this case. Having carefully reviewed the entire file, including plaintiff’s  
11 objections, the court finds the findings and recommendations to be supported by the record and  
12 by proper analysis.

13 Accordingly,

- 14 1. The findings and recommendations issued on December 22, 2017 (Doc. No. 16)  
15 are adopted in full;
- 16 2. This action shall proceed against defendants Jiminez and Metts on plaintiff’s claim  
17 for deliberate indifference to his serious medical needs in violation of the Eighth  
18 Amendment;
- 19 3. Plaintiff’s requests for injunctive and declaratory relief are denied;
- 20 4. All other claims and defendants are dismissed from this action for the failure to  
21 state a claim upon which relief may be granted; and
- 22 5. This action is referred back to the magistrate judge for further proceedings  
23 consistent with this order.

24 IT IS SO ORDERED.

25 Dated: March 9, 2018

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28 UNITED STATES DISTRICT JUDGE