

1 No. 17.) The magistrate judge dismissed all other defendants for failure to state a cognizable
2 claim for relief. (*Id.*) The magistrate judge indicated that jurisdiction existed under 28 U.S.C. §
3 636(c) based on the fact that plaintiff had consented to magistrate judge jurisdiction and no other
4 parties had yet appeared in this action. (*Id.*)

5 On July 11, 2017, defendants filed an answer to the complaint. (Doc. No. 21.) On July
6 20, 2017, the court issued the discovery and scheduling order. (Doc. No. 22.)

7 On November 9, 2017, the Ninth Circuit Court of Appeals ruled that 28 U.S.C. §
8 636(c)(1) requires the consent of all named plaintiffs and defendants, even those not served with
9 process, before jurisdiction may vest in a magistrate judge to dispose of a civil case. *Williams v.*
10 *King*, 875 F.3d 500, 504 (9th Cir. 2017). Accordingly, the magistrate judge lacked jurisdiction to
11 dismiss the above-described claims by way of the April 19, 2017 order. Therefore, on December
12 1, 2017, the magistrate judge issued findings and recommendations recommending that this
13 action proceed against defendants R. Fisher, Jr. and the California Department of Corrections and
14 Rehabilitation on plaintiff's claim under the Americans with Disabilities Act and that all other
15 defendants be dismissed for failure to state a cognizable claim for relief. The findings and
16 recommendations were served on the parties and contained notice that objections were to be filed
17 within fourteen days. No objections were filed and the time period to do so has expired.

18 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the
19 undersigned has conducted a de novo review of plaintiff's case. In his second amended
20 complaint, plaintiff alleges that regardless of his status and whether EOP inmates have been
21 cleared for dining hall and kitchen positions or not, "the fact remains that no EOP inmates,
22 including ADA recipients, will be assigned to these particular jobs, canteen, laundry, or dining
23 hall, and it has been this way for the past two years or more on 'A' facility." (Doc. No. 16 at 3.)
24 The undersigned agrees that plaintiff has stated a cognizable claim for relief under the Americans
25 with Disabilities Act because his request for reasonable accommodation for a position he was
26 qualified for was denied because of his status as an EOP inmate and the decision was based on
27 medical information that was ten years old. As such, the undersigned concludes the findings and
28 recommendations are supported by the record and by proper analysis.

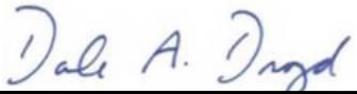
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Accordingly,

1. The December 1, 2017 findings and recommendations are adopted in full;
2. This action shall continue to proceed against Defendant R. Fisher, Jr. and the California Department of Corrections and Rehabilitation on plaintiff's claim under the Americans with Disabilities Act; and
3. All other defendants are dismissed from the action for failure to state a cognizable claim for relief.

IT IS SO ORDERED.

Dated: January 5, 2018


UNITED STATES DISTRICT JUDGE