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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODERICK WILLIAM LEAR,

 Plaintiff,

 v.

DAVE DAVEY, et al.,

 Defendants.

No. 1:17-cv-00071-DAD-JDP

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 55, 62, 59, 70, 85)

Plaintiff Roderick William Lear 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 September 3, 2019, the assigned magistrate judge issued findings and recommendations, recommending that defendants’ motion for summary judgment be granted, and that plaintiff’s motions for summary judgment, temporary restraining order, and sanctions be denied. (Doc. No. 85). 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. at 3.) On September 13, 2019, plaintiff timely filed objections. (Doc. No. 86.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, including plaintiff’s objections, the court finds the findings and recommendations to be supported

1 by the record and by proper analysis.

2 In his objections, plaintiff contends that the magistrate judge failed to consider certain
3 evidence and should have found that genuine issues of material fact existed so as to preclude
4 summary judgment in favor of defendants. Thus, for instance, plaintiff argues that the assigned
5 magistrate judge improperly sided with defendants in concluding that plaintiff's medical
6 condition had improved, because of which the magistrate judge found that the method of
7 transportation to medical care provided to plaintiff was adequate. (Doc. No. 86 at 3.) However,
8 nowhere in the findings and recommendations did the magistrate judge make any factual
9 determination as to whether plaintiff's condition had improved or been resolved entirely. Even
10 had the magistrate judge made such a determination and done so in plaintiff's favor, plaintiff's
11 claim of deliberate indifference to a serious medical need would not be supported by the evidence
12 before the court on summary judgment. Plaintiff evidently disagrees with the conclusions
13 reached by his treating doctor, but that amounts only to a difference of opinion regarding the
14 proper course and scope of his medical treatment. As the assigned magistrate judge recognized,
15 such mere disagreements are not actionable under the Eighth Amendment. See *Toguchi v. Chung*,
16 391 F.3d 1051, 1058 (9th Cir. 2004).

17 Accordingly,

- 18 1. The findings and recommendations issued on September 3, 2019 (Doc. No. 85) are
19 adopted in full;
- 20 2. Defendant's motion for summary judgment (Doc No. 55) is granted;
- 21 3. Plaintiff's motion for summary judgment (Doc No. 62) is denied;
- 22 4. Plaintiff's motions for temporary restraining orders (Doc Nos. 59, 70) are denied;
- 23 5. Plaintiff's motion for sanctions (Doc No. 64) is denied;
- 24 6. This action is dismissed with prejudice; and
- 25 7. The Clerk of Court is directed to close this case.

26 IT IS SO ORDERED.

27 Dated: September 26, 2019

28 
UNITED STATES DISTRICT JUDGE