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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES MILLNER,
Plaintiff,
v.
DR. DILEO, et al.,
Defendants.

Case No.: 1:17-cv-00507-LJO-SAB (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND
DISMISSING CERTAIN DEFENDANTS
(ECF No. 19)

Plaintiff Marcellas Hoffman is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 14, 2017, Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c) and Local Rule 302. (ECF No. 6.) Later, on September 11, 2017, the assigned magistrate judge screened Plaintiff’s complaint and found that it stated a cognizable claim against Defendants Dileo, Ulit, Spaeth, and the Chief Medical Officer for deliberate indifference in violation of the Eighth Amendment based on his wrist injury. (ECF No. 8.) On October 3, 2017, the assigned magistrate judge dismissed all other claims and defendants for the failure to state a claim upon which relief may be granted. (ECF No. 12.)

On December 1, 2017, the magistrate judge reinstated Plaintiff’s previously dismissed claims, recognizing that a recent Ninth Circuit opinion, *Williams v. King*, 875 F.3d 500 (9th Cir.

1 2017), had held that a magistrate judge does not have jurisdiction to dismiss claims with
2 prejudice in screening prisoner complaints even if a plaintiff has consented to magistrate judge
3 jurisdiction, as Plaintiff had done here. (ECF No. 19.) Concurrently, the magistrate judge issued
4 findings and recommendations recommending that the undersigned dismiss those reinstated
5 claims. (*Id.*) The parties were given fourteen days to file his objections to those findings and
6 recommendations. No objections were filed, and the time in which to do so has now passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the
8 undersigned has conducted a *de novo* review of this case. The undersigned concludes that the
9 findings and recommendations are supported by the record and by proper analysis.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. The findings and recommendations issued on December 1, 2017 (ECF No. 19),
12 are adopted in full;
- 13 2. This action shall proceed on Plaintiff's claim against Defendants Dileo, Ulit,
14 Spaeth, and the Chief Medical Officer, in their individual capacity, for deliberate
15 indifference in violation of the Eighth Amendment based on his wrist injury; and
- 16 3. All other claims and defendants are dismissed for the failure to state a claim upon
17 which relief may be granted.

18 IT IS SO ORDERED.
19

20 Dated: March 6, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE