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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MITCHELL GARRAWAY,
Plaintiff,
v.
JACQUILINE CIUFO, et al.,
Defendants.

No. 1:17-cv-00533-DAD-GSA

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, FINDING CERTAIN
CLAIMS COGNIZABLE, DISMISSING
CERTAIN CLAIMS, AND REFERRING
MATTER BACK TO MAGISTRATE JUDGE

(Doc. No. 11)

Plaintiff is a federal prisoner proceeding pro se and *in forma pauperis* with this civil rights action brought pursuant to *Bivens vs. Six Unknown Agents*, 403 U.S. 388 (1971). This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302.

On April 17, 2017, plaintiff filed the complaint commencing this action. (Doc. No. 1.) On April 9, 2018, the assigned magistrate judge screened plaintiff’s complaint and issued findings and recommendations, recommending that this action be permitted to proceed on plaintiff’s claim against defendants Ciufu, Miller, and Zaragoza for failure to protect plaintiff in violation of the Eighth Amendment, and that all remaining claims be dismissed from this action for failure to state a claim, without leave to amend. (Doc. No. 11.) Plaintiff was provided fourteen days in which to file objections to the findings and recommendations. (*Id.*) The fourteen-day deadline

1 has expired, and plaintiff has not filed objections or otherwise responded to the findings and
2 recommendations.

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

7 Accordingly:

- 8 1. The findings and recommendations issued on April 9, 2018 (Doc. No. 11) are adopted in
9 full;
- 10 2. This action now proceeds on plaintiff's claim against defendants Ciufo, Miller, and
11 Zaragoza for failure to protect plaintiff under the Eighth Amendment as alleged in his
12 original complaint filed April 17, 2017;
- 13 3. Plaintiff's claim brought under 18 U.S.C. § 4042 is dismissed for failure to state a claim
14 upon which relief may be granted without leave to amend; and
- 15 4. This case is referred back to the assigned magistrate judge for further proceedings,
16 including initiation of service.

17 IT IS SO ORDERED.

18 Dated: July 17, 2018

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21 UNITED STATES DISTRICT JUDGE
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