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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL JORGENSON,
Plaintiff,
v.
UNITED STATES OF AMERICA, et al.,
Defendants.

Case No. 1:17-cv-00817-LJO-EPG (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF NOS. 75 & 101)
ORDER DISMISSING DEFENDANT
UNITED STATES OF AMERICA FROM
THIS ACTION

Paul Jorgenson (“Plaintiff”) is a federal prisoner proceeding *pro se* and *in forma pauperis* in this action. This case now proceeds on Plaintiff’s Second Amended Complaint (“SAC”), which was filed on July 12, 2018. (ECF No. 19). This case is proceeding on Plaintiff’s FTCA claim against the United States, his Eighth Amendment Bivens claim against the four unknown correctional officers (“the Doe Defendants”), his state tort claims for medical negligence against Defendants Haak, Randhawa, and Emanuel Medical Center, and his state tort claims for battery against Defendants Haak and Emanuel Medical Center. (ECF No. 21, p. 2; ECF No. 95, p. 3). 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 April 25, 2019, defendant United States filed a motion for summary judgment, or in the alternative, judgment on the pleadings. (ECF No. 75). Plaintiff had twenty-one days after service of the motion to file and serve an opposition or a statement of no opposition. Local

1 Rule 230(l). Plaintiff did not file an opposition or a statement of no opposition. On September
2 10, 2019, the Court gave Plaintiff an additional thirty days to file a response to defendant
3 United States' motion. (ECF No. 90, p. 2). The extended deadline for Plaintiff to respond
4 passed, and Plaintiff did not file an opposition or a statement of no opposition.

5 On December 10, 2019, Magistrate Judge Erica P. Grosjean entered findings and
6 recommendations, recommending that "Defendant United States' motion for judgment on the
7 pleadings be GRANTED," and that "Defendant United States be dismissed from this action
8 with prejudice because of Plaintiff's failure to state a claim and because of Plaintiff's failure to
9 follow this Court's local rules." (ECF No. 101, p. 10).

10 The parties were provided an opportunity to file objections to the findings and
11 recommendations. Plaintiff filed at least some of his objections on January 6, 2020. (ECF No.
12 102).¹

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this
14 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
15 the Court finds the findings and recommendations to be supported by the record and proper
16 analysis.

17 Accordingly, THE COURT HEREBY ORDERS that:

- 18 1. The findings and recommendations issued by the magistrate judge on December 10,
19 2019, are ADOPTED in full;
- 20 2. Defendant United States' motion for judgment on the pleadings is GRANTED;
- 21 3. Defendant United States is dismissed from this action with prejudice because of
22 Plaintiff's failure to state a claim and because of Plaintiff's failure to follow this
23 Court's local rules; and

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27 ¹ Plaintiff did not file objections to the findings and recommendations, but he did include at least some of
28 his objections in his motion for extension of time to file objections. (ECF No. 102). Plaintiff's motion for
extension of time was granted (ECF No. 103), but the deadline for Plaintiff to file his objections has passed and he
has not filed objections.

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4. The Clerk of Court is directed to reflect the dismissal of defendant United States on the Court's docket.

IT IS SO ORDERED.

Dated: January 27, 2020

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