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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND ALFORD BRADFORD,
Plaintiff,
v.
C. OGBUEHI, et al.,
Defendants.

No. 1:17-cv-01128-DAD-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 19)

Plaintiff Raymond Alford Bradford is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action 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 August 29, 2018, the court screened plaintiff’s first amended complaint and found that it stated a cognizable claim against defendants Usher, Rimbach, German, Ulit, Spaeth and Sao for violation of the Eighth Amendment. (Doc. No. 17.) The court also notified plaintiff of deficiencies in his allegations in other respects, and ordered him to notify the court whether he wished to proceed on the claim found by the court to be cognizable, or instead wished to file a second amended complaint. (*Id* at 6.) On September 19, 2018, plaintiff objected to the screening order and argued that he had sufficiently stated a claim against all named defendants. (Doc. No. 18.)

1 On September 21, 2018, the assigned magistrate judge construed plaintiff’s objection as a
2 notification that he declined to file a second amended complaint and issued findings and
3 recommendations, recommending that this action proceed only against defendants Usher,
4 Rimbach, German, Ulit, Spaeth, and Sao, in their individual capacities, for violation of the Eighth
5 Amendment, and that all other claims and defendants be dismissed. (Doc. No. 19.) The findings
6 and recommendations were served on plaintiff and contained notice that any objections thereto
7 were to be filed within thirty days after service. (*Id.* at 7.) Plaintiff timely filed objections on
8 October 18, 2018. (Doc. No. 20.)

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has
10 conducted a *de novo* review of this case. Having carefully reviewed the entire file, including
11 plaintiff’s objections, the undersigned concludes the findings and recommendations are supported
12 by the record and by proper analysis.

13 Plaintiff again asserts in his objections that he sufficiently stated a claim based on his
14 allegations with respect to his Deep Vein Thrombosis (DVT) condition and his claim of
15 retaliation. However, with respect to DVT, the magistrate judge found that this claim was wholly
16 separate from plaintiff’s Valley Fever claim, and therefore could not be brought in the same
17 action pursuant to Federal Rule of Civil Procedure 18(a). Plaintiff’s objections do not call that
18 finding into question. The court also concurs with the magistrate judge’s finding that even
19 construed liberally, the operative complaint fails to allege facts sufficient to state a claim for
20 retaliation.

21 Finally, the court notes that plaintiff in his objections refers to the assigned magistrate
22 judge as “boneheaded,” and states that the judge “should throw himself under the bus, out of
23 court, and off this case. . . .” (Doc. No. 20 at 5.) Plaintiff has previously used such language in
24 referring to the assigned magistrate judge (Doc. No. 18 at 1), and was warned that use of
25 inappropriate language and harassing conduct is sanctionable, and would result in the dismissal of
26 this action if repeated. (Doc. No. 19 at 7.) At this time, the court will exercise its discretion not
27 to immediately dismiss this action. However, plaintiff is advised that any further similar breaches
28 of decorum will result in the dismissal of this action as an appropriate sanction.


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For these reasons,

1. The findings and recommendations issued on September 21, 2018 (Doc. No. 19) are adopted in full;
2. This action proceeds on plaintiff's claim against defendants Usher, Rimbach, German, Ulit, Spaeth, and Sao for violation of the Eighth Amendment based on plaintiff's allegations related to Valley Fever;
3. All other claims and defendants are dismissed; and
4. This case is referred back to the assigned magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: December 4, 2018


UNITED STATES DISTRICT JUDGE