

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
9

10 JOHN WESLEY WILLIAMS,

11 Plaintiff,

12 v.

13 S. ALFARO, et al.,

14 Defendants.
15

CASE No. 1: 17-cv-01310-AWI-MJS (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION THAT THIS ACTION
PROCEED ONLY ON COGNIZABLE
CLAIMS AND THAT ALL OTHER CLAIMS
AND DEFENDANTS BE DISMISSED**

(ECF NO. 14)

16 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil
17 rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United
18 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the
19 United States District Court for the Eastern District of California.

20 On January 22, 2018, the Magistrate Judge issued findings and a
21 recommendation that this action proceed on the following cognizable claims: 1) First
22 Amendment retaliation claims for damages against Defendants Villarrial, Dollarhide,
23 Longoria, and Noland in their individual capacities; 2) Eighth Amendment excessive
24 force claims for damages against Defendants Campbell, Morelock, Longoria, Noland,
25 and Burns in their individual capacities; 3) Eighth Amendment medical claims for
26 damages against Defendants Dollarhide, Noland, and Burns in their individual
27 capacities; 4) Fourteenth Amendment Equal Protection claims for damages against
28

1 Defendants Longoria, Noland, and Alvarado in their individual capacities; and 5) ADA
2 claims against Defendants Alfaro and Sexton in their official capacities. (ECF No. 14.)
3 The Magistrate Judge concluded that Plaintiff's remaining claims were not cognizable as
4 pled and he recommended that they be dismissed. (Id.) Plaintiff previously had been
5 afforded an opportunity to amend to cure the defects identified by the Magistrate Judge
6 (ECF No. 11), but declined to do so (ECF Nos. 12, 13).

7 The findings and recommendation were served on Plaintiff with notice that any
8 objections thereto were to be filed within fourteen days. (ECF No. 14.) On February 7,
9 2018, Plaintiff filed objections, objecting to the dismissal of his claims against Defendant
10 Gallagher. (ECF No. 16.)

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has
12 conducted a de novo review of this case. Having carefully reviewed the entire file, the
13 Court finds the findings and recommendation to be supported by the record and by
14 proper analysis. For the reasons stated by the Magistrate Judge, the facts alleged by
15 Plaintiff are insufficient, standing alone, to suggest deliberate indifference on the part of
16 Defendant Gallagher. Plaintiff's objections do not add any facts to suggest this defect
17 could be cured through amendment.

18 Accordingly, it is HEREBY ORDERED that:

- 19 1. The Court adopts the January 22, 2018 findings and recommendation
20 (ECF No. 14) in full;
- 21 2. This action proceeds on the following cognizable claims as stated in the
22 Court's screening order (ECF No. 11):
 - 23 a. First Amendment claims for damages against Defendants
24 Villarrial, Dollarhide, Longoria, and Noland in their individual
25 capacities;
 - 26 b. Eighth Amendment excessive force claims for damages against
27 Defendants Campbell, Morelock, Longoria, Noland, and
28 Burns in their individual capacities;

- 1 c. Eighth Amendment medical claims for damages against
2 Defendants Dollarhide, Noland, and Burns in their individual
3 capacities;
4 d. Fourteenth Amendment Equal Protection claims for damages
5 against Defendants Longoria, Noland, and Alvarado in their
6 individual capacities; and
7 e. ADA claims against Defendants Alfaro and Sexton in their official
8 capacities;

- 9 3. All other claims and defendants are dismissed from this action for failure to
10 state a claim.

11 IT IS SO ORDERED.

12 Dated: March 2, 2018

13 
14 SENIOR DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28