UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID LEE BROCK,

Plaintiff,

v.

TUOLUMNE COUNTY SHERIFF'S OFFICE, et al.,

Defendants.

No. 1:17-cv-01610-NONE JLT (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO GRANT IN PART DEFENDANTS' MOTION TO DISMISS AND MOTION TO STRIKE

(Docs. 51, 52, 56, 59)

FOURTEEN-ONE-DAY DEADLINE

Plaintiff has filed this civil rights action seeking relief under 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 September 10, 2020, the assigned magistrate judge issued findings and recommendations recommending that defendants' June 11, 2020 motion to dismiss (Doc. 51) and plaintiff's June 30, 2020 motion to strike (Doc. 52) be denied as moot and that defendants' July 29, 2020 motion to dismiss (Doc. 56) be granted in part with plaintiff's failure-to-protect claim being allowed to proceed against defendants Sergeant Ransom, Sergeant McNeil, and the Doe Defendant, plaintiff's failure-to-protect claim against Deputy Smith being dismissed with

prejudice, plaintiff's failure-to-protect claim against Deputy Stallings, Deputy Hurtado, Deputy Long, Deputy Richards, and Deputy Lee being dismissed without prejudice, and defendants' motion to strike being denied as moot. Those findings and recommendations were served on all parties and contained notice that any objections thereto were to be filed within fourteen days. No objections to the findings and recommendations have been filed.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed September 10, 2020 (Doc. No. 59), are adopted in full; and

2. Defendants' June 11, 2020 motion to dismiss (Doc. 51) and plaintiff's June 30, 2020 motion to strike (Doc. 52) are denied as moot;

3. Defendants' July 29, 2020 motion to dismiss (Doc. 56) is granted in part as follows:

a. Plaintiff's failure-to-protect claim shall proceed against Sergeant Ransom, Sergeant McNeil, and the Doe Defendant;

b. Plaintiff's failure-to-protect claim against Deputy Smith is dismissed with prejudice;

c. Plaintiff's failure-to-protect claim against Deputy Stallings, Deputy Hurtado, Deputy Long, Deputy Richards, and Deputy Lee is dismissed without prejudice;

d. Defendants' motion to strike is denied as moot; and

4. Defendants shall file an answer to plaintiff's Fourth Amended Complaint within fourteen days from the date of this order.

IT IS SO ORDERED.

Dated: **October 13, 2020**

Dale A. Drozd
UNITED STATES DISTRICT JUDGE