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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHESTER RAY WISEMAN,) Case No.: 1:18-cv-00126-SAB (PC)
)
Plaintiff,)
)
v.) ORDER DIRECTING CLERK OF COURT TO
) RANDOMLY ASSIGN A DISTRICT JUDGE TO
) THIS ACTION, AND FINDINGS AND
MARTIN D. BITER, et al.,) RECOMMENDATION RECOMMENDING
) DISMISSAL OF DEFENDANT WARDEN BITER
Defendants.)
) [ECF Nos. 1, 7, 8]
)

Plaintiff Chester Ray Wiseman is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 2, 2018, the Court screened Plaintiff's complaint and found that it stated a cognizable claim for deliberate indifference to a serious medical need against Defendants Romero, Swanson, R. Rivera. M. Pomoa and R. Perez. (ECF No. 7.) Plaintiff did not state a cognizable claim against Defendant Warden Biter. (Id.) Plaintiff was granted an opportunity to amend his complaint, or notify the Court that he is agreeable to proceeding only on the deliberate indifference claim against the above named Defendants. (Id.)

On March 14, 2018, Plaintiff notified the Court that he wished to proceed only on the deliberate indifference claim against Defendants Romero, Swanson, R. Rivera. M. Pomoa and R. Perez. (ECF No. 8.)

///

1 As a result, the Court will recommend that this action only proceed on the claim identified
2 above, and all other claims and defendants be dismissed for the reasons stated in the Court's March 2,
3 2018 screening order. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic
4 Corp. v. Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010).

5 Accordingly, it is HEREBY RECOMMENDED that:

- 6 1. This action proceed on Plaintiff's claim of deliberate indifference against Defendants
7 Romero, Swanson, R. Rivera. M. Pomoa and R. Perez;
- 8 2. Defendant Warden Biter be dismissed from the action consistent with the reasons set
9 forth in the Court's March 2, 2018 screening order; and
- 10 3. The Clerk of Court is directed to randomly assign a District Judge to this action.

11 These findings and recommendations will be submitted to the United States District Judge
12 assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within **fourteen (14) days**
13 after being served with these Finding and Recommendations, Plaintiff may file written objections with
14 the Court. The document should be captioned "Objections to Findings and Recommendations."
15 Plaintiff is advised that failure to file objections within the specified time may result in the waiver of
16 rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v.
17 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: March 22, 2018


21 _____
22 UNITED STATES MAGISTRATE JUDGE