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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KELVIN CANNON,
Plaintiff,
v.
GALLAGHER, *et al.*,
Defendants.

No. 1:18-cv-00666-NONE-JDP
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS THAT
DEFENDANTS MOTION TO DISMISS BE
DENIED IN PART AND GRANTED IN PART
(Doc. Nos. 21, 42)

Plaintiff Kelvin Cannon is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action 42 U.S.C. § 1983. This 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 5, 2019, defendants Vang, Torres, Flores, Gonsalves, and Wilson moved to dismiss plaintiff’s claims against them under Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 21.) Defendants also moved to dismiss plaintiff’s claims for injunctive relief on the grounds that plaintiff is no longer incarcerated at the prison where the alleged deprivations occurred. On February 28, 2020, the assigned magistrate judge issued findings and recommendations, recommending that the motion to dismiss the individual claims against them brought on behalf of defendants Vang, Torres, Flores, Gonsalves, and Wilson be denied, and that the defendants’ motion to dismiss plaintiff’s claims for injunctive relief be granted. (*Id.*) Those findings and

1 recommendations were served on the parties, and contained notice that objections thereto were
2 due within fourteen (14) days. (*Id.* at 6.) No party has objected to the pending findings and
3 recommendations.

4 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a
5 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
6 findings and recommendations are supported by the record and by proper analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations issued on February 28, 2020 (Doc. No. 42), are
9 adopted in full;
- 10 2. the motion to dismiss plaintiff's individual claims against them brought on behalf
11 of defendants Vang, Torres, Flores, Gonsalves, and Wilson is denied;
- 12 3. Defendants' motion to dismiss plaintiff's claims for injunctive relief is granted;
- 13 4. Defendants' motion to dismiss (Doc. No. 21) is thus granted in part and denied in
14 part; and
- 15 5. This case is referred back to the assigned magistrate judge for further proceedings.

16 IT IS SO ORDERED.

17 Dated: April 1, 2020

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20 UNITED STATES DISTRICT JUDGE
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