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

MICHAEL GONZALES,

 Plaintiff,

 v.

GONZALES, et al.,

 Defendants.

Case No. 1:19-cv-00459-SAB (PC)

**ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN DISTRICT JUDGE TO
ACTION**

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS AND DEFENDANTS

(ECF Nos. 8, 9)

FOURTEEN (14) DAY DEADLINE

Plaintiff Michael Gonzales is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 4, 2019, the Court screened Plaintiff’s complaint and found that Plaintiff stated a cognizable claim against Defendants Godinez, Cena, Gonzales, Harry, Villegas, Serato (or Serrato), Gonzalez, Shoemaker, Perez, Willis, Arron, Torres, and Harmon for providing Plaintiff with food tainted with involuntary antipsychotic medication without a Keyhea order in violation of the Due Process Clause of the Fourteenth Amendment, but failed to state any other cognizable claims against any other defendants. (ECF No. 8.) The Court ordered Plaintiff to either file a first amended complaint or notify the Court in writing of his willingness to proceed only on the cognizable claim. (Id.)

1 On September 25, 2019, Plaintiff notified the Court of his willingness to proceed only on
2 the cognizable claim identified by the Court on September 4, 2019. (ECF No. 9.)

3 Accordingly, the Court will recommend that this action proceed only against Defendants
4 Godinez, Cena, Gonzales, Harry, Villegas, Serato (or Serrato), Gonzalez, Shoemaker, Perez,
5 Willis, Arron, Torres, and Harmon for providing Plaintiff with food tainted with involuntary
6 antipsychotic medication without a Keyhea order in violation of the Due Process Clause of the
7 Fourteenth Amendment, and that all other claims and defendants be dismissed. Fed. R. Civ. P.
8 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544,
9 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 341-42 (9th Cir. 2010).

10 Based on the foregoing, the Court HEREBY ORDERS the Clerk of the Court to randomly
11 assign a Fresno District Judge to this action.

12 Further, it is HEREBY RECOMMENDED that:

- 13 1. This action proceed on Plaintiff's complaint, filed on April 9, 2019, (ECF No. 1),
14 against Defendants Godinez, Cena, Gonzales, Harry, Villegas, Serato (or Serrato),
15 Gonzalez, Shoemaker, Perez, Willis, Arron, Torres, and Harmon for providing
16 Plaintiff with food tainted with involuntary antipsychotic medication without a
17 Keyhea order in violation of the Due Process Clause of the Fourteenth Amendment;
18 and
- 19 2. All other claims and defendants be dismissed from the action for failure to state a
20 cognizable claim for relief.

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1 These Findings and Recommendations will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14)**
3 **days** after being served with these Findings and Recommendations, Plaintiff may file written
4 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
5 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
6 specified time may result in the waiver of the “right to challenge the magistrate’s factual findings”
7 on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923
8 F.2d 1391, 1394 (9th Cir. 1991)).

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11 IT IS SO ORDERED.

12 Dated: September 27, 2019



UNITED STATES MAGISTRATE JUDGE

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