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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELMER DOSIO,  
  
                                Plaintiff,  
  
                                v.  
  
N. ODELUGLA, et al.,  
  
                                Defendants.

No. 1:19-cv-00675-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 19)

Plaintiff Elmer Dosio is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action 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 March 9, 2021, the assigned magistrate judge issued findings and recommendations, recommending that this action proceed only against defendant Licensed Vocational Nurse (“LVN”) Elma Fernandez<sup>1</sup> on plaintiff’s claim for inadequate medical care under the Eighth Amendment, and that all other claims and defendants be dismissed from this action due to plaintiff’s failure to state a claim. (Doc. No. 19 at 7–9.) Specifically, the magistrate judge found that plaintiff’s request for declaratory relief was subsumed by his damages claim, that plaintiff is

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<sup>1</sup> Sued as E. Frandez.

1 not entitled to attorneys' fees because he is representing himself in this action, and that the second  
2 amended complaint did not allege claims against any defendant other than LVN Fernandez. (*Id.*  
3 at 8–9.) The findings and recommendations were served on plaintiff and contained notice that  
4 any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 9.) The  
5 time to file objections has now passed, and no objections have been filed.

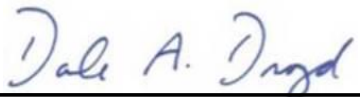
6 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and Local Rule 304, this  
7 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the  
8 court finds the findings and recommendations to be supported by the record and proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on March 9, 2021 (Doc. No. 19) are  
11 adopted in full;
- 12 2. This action shall proceed only against defendant LVN Elma Fernandez on  
13 plaintiff's claim of inadequate medical care under the Eighth Amendment;
- 14 3. All other claims and defendants are dismissed from this case based on plaintiff's  
15 failure to state a claim;
- 16 4. Plaintiff's claims for declaratory relief and attorney's fees are dismissed from this  
17 case based on plaintiff's failure to state a claim;
- 18 5. The clerk is directed to reflect on the docket that defendants T. Kubicki (CEO of  
19 Medical Administration), N. Odeluga (CEO of Medical Administration), Dr. A.  
20 Shitiu, S. Kernan (CDCR Secretary), and Doe Defendant (CDCR Receiver), are  
21 dismissed from this case due to plaintiff's failure to name them or state any  
22 cognizable claims against them in the second amended complaint; and
- 23 6. This action is referred back to the assigned magistrate judge for further  
24 proceedings consistent with this order.

25 IT IS SO ORDERED.

26 Dated: April 29, 2021

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UNITED STATES DISTRICT JUDGE