

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JASON McCLAIN,	Case No. 1:19-cv-00900-AWI-BAM (PC)
Plaintiff, v. SCHOO, et al.,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS REGARDING DISMISSAL OF CERTAIN CLAIMS AND PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
Defendants.	(ECF No. 16)

Plaintiff Jason McClain ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma* pauperis in this civil rights action pursuant to 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 January 15, 2020, the assigned Magistrate Judge screened Plaintiff's complaint and found that Plaintiff stated a cognizable claim against Defendants Schoo, Gonzalez, and Brooks for failure to protect in violation of the Eighth Amendment, but failed to state any other cognizable claims. The Court ordered Plaintiff to either file a first amended complaint or notify the Court of his willingness to proceed only on the cognizable claim. (ECF No. 13.) On January 30, 2020, Plaintiff notified the Court of his willingness to proceed on the cognizable claim for failure to protect against the defendants, as identified by the Court. (ECF No. 14.) In his notification, Plaintiff also requested that the Court issue an order that he be placed on the priority legal user list so he may be provided with legal materials such as motion paper. (Id.)

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Accordingly, on February 4, 2020, the Magistrate Judge issued findings and recommendations that this action proceed on Plaintiff's complaint against Defendants Schoo, Gonzalez, and Brooks for failure to protect in violation of the Eighth Amendment, and all other claims be dismissed from this action for failure to state a claim. (ECF No. 16.) The findings and recommendations were served on Plaintiff and contained notice that any objections were to be filed within fourteen (14) days after service. (Id. at 8.) Plaintiff timely filed objections on February 12, 2020. (ECF No. 17.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's objections, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED as follows:

- 1. The findings and recommendations issued on February 4, 2020, (ECF. No. 16), are adopted in full;
- This action shall proceed on Plaintiff's complaint, filed June 14, 2019, (ECF No. 1), against Defendants Schoo, Gonzalez, and Brooks for failure to protect in violation of the Eighth Amendment;
- 3. All other claims are dismissed from this action based on Plaintiff's failure to state claims upon which relief may be granted;
- 4. Plaintiff's motion for preliminary injunction, (ECF No. 14), is denied; and
- 5. This action is referred back to the Magistrate Judge for proceedings consistent with this order.

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IT IS SO ORDERED.

Dated: April 30, 2020

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SENIOR DISTRICT JUDGE