

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL DE'ANDRAE FLOWERS,
Plaintiff,
v.
COUNTY OF FRESNO, et al.,
Defendants.

No. 1:19-cv-01027-NONE-JLT (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

(Doc. No. 21)

Plaintiff Michael De'Andrae Flowers, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action under 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.

20 On June 15, 2021, the assigned magistrate judge issued a second screening order, finding
21 that plaintiff's first amended complaint (Doc. No. 14) states a cognizable claim of Eighth
22 Amendment medical indifference against CO Toon and Does 1–3. (Doc. No. 15.) The magistrate
23 judge further found that the plaintiff did not state cognizable claims against the County of Fresno,
24 the Fresno County Sheriff's Department, Fresno County Sheriff Margaret Mimms, and Sergeant
25 Oliver. (*Id.*) The magistrate judge granted plaintiff leave to file a second amended complaint; or
26 a notice that he does not wish to file a second amended complaint and instead wishes to proceed
27 on the deliberate indifference claims against CO Toon and Does 1–3 and dismiss his remaining
28 claims and defendants; or a notice of voluntary dismissal of this entire case. (Doc. No. 15 at 9.)

1 The order granted Plaintiff twenty-one days to make an election and indicated: "If Plaintiff fails
2 to comply with this order, the Court will recommend that this action proceed only on the claims
3 found cognizable herein and that all other claims be dismissed with prejudice. (*Id.*)

4 Plaintiff responded that he only wished to proceed with the claims against CO Toon and
5 the Doe defendants. (Doc. No. 18.)

6 The magistrate judge entered findings and recommendations to proceed only on the
7 cognizable medical indifference claims against CO Toon and Does 1–3, and to dismiss all other
8 claims and defendants. (Doc. No. 21.) The court advised plaintiff that he could file objections
9 within fourteen days after being served with the findings and recommendations. (*Id.*)

10 Over fourteen days have passed, and plaintiff did not file objections to the findings and
11 recommendations.

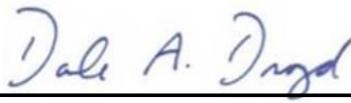
12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
13 *de novo* review of this case. Having carefully reviewed the file, the court finds the findings and
14 recommendations to be supported by the record and proper analysis.

15 Accordingly,

- 16 1. The findings and recommendations issued on July 13, 2021 (Doc. No. 21) are adopted
17 in full;
- 18 2. Defendants County of Fresno, the Fresno County Sheriff's Department, Fresno
19 County Sheriff Margaret Mimms, and Sergeant Oliver are dismissed;
- 20 3. All claims in plaintiff's complaint are dismissed, except for claims of deliberate
21 indifference to serious medical needs under 42 U.S.C. § 1983; and
- 22 4. This case is referred back to the assigned magistrate judge for further proceedings.

23 IT IS SO ORDERED.

24 Dated: August 23, 2021


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26 UNITED STATES DISTRICT JUDGE
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