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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARINO ANTONIO HERNANDEZ,
Plaintiff,
v.
J. MARCELO, et al.,
Defendants.

No. 1:19-cv-01219-NONE-JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 14)

Plaintiff Marino Antonio Hernandez is a state prisoner proceeding *pro se* and *in forma pauperis* in 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.

On March 2, 2020, the assigned magistrate judge issued a screening order, finding that plaintiff’s complaint (Doc. No. 1) states cognizable claims of deliberate indifference to serious medical needs under section 1983 and cognizable claims under the Americans with Disabilities Act (ADA) and the Rehabilitation Act, but its retaliation claim is not cognizable. (Doc. No. 11.) The magistrate judge further found that the complaint states cognizable claims against Defendants J. Marcelo and N. Akabike, but not against Defendants C. Cryer, C. Mbadugha, or D. Oberst. (*Id.*) Pursuant to the screening order, plaintiff filed a notice that he “he wishe[s] to proceed only on his cognizable claims against J. Marcelo and ... Akabike, and to dismiss Cryer, Mbadugha and Oberst.” (Doc. No. 12.)

1 Accordingly, on March 17, 2020, the magistrate judge issued findings and
2 recommendations, recommending that (1) Defendants Cryer, Mbadugha, and Oberst be dismissed
3 and (2) all claims be dismissed, except for plaintiff's claims of deliberate indifference to serious
4 medical needs under 42 U.S.C. § 1983, set forth in Claim I of the complaint, and plaintiff's
5 claims under the ADA and the Rehabilitation Act, set forth in Claim III. (Doc. No. 14.) The
6 findings and recommendations were served on plaintiff and provided him fourteen (14) days to
7 file objections thereto. (*Id.* at 2.) Plaintiff has not filed objections and the time do so has passed.

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

11 Accordingly,

- 12 1. The findings and recommendations issued on March 17, 2020 (Doc. No. 14) are
13 adopted in full;
- 14 2. Defendants Cryer, Mbadugha, and Oberst are dismissed;
- 15 3. All claims in plaintiff's complaint are dismissed, except for claims of deliberate
16 indifference to serious medical needs under 42 U.S.C. § 1983, set forth in Claim I
17 of the complaint, and claims under the Americans with Disabilities Act and the
18 Rehabilitation Act, set forth in Claim III; and,
- 19 4. This case is referred back to the assigned magistrate judge for further proceedings.

20
21 IT IS SO ORDERED.

22 Dated: April 21, 2020



UNITED STATES DISTRICT JUDGE