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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE GARCIA,

12 Plaintiff,

13 v.

14 U. BANIGA, M.D., et al.,

15 Defendants.
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1:19-cv-01258-AWI-GSA-PC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 13.)**

**ORDER FOR THIS ACTION TO
PROCEED ONLY AGAINST DEFENDANT
DR. RODRIGUEZ FOR INADEQUATE
MEDICAL CARE UNDER THE EIGHTH
AMENDMENT, AND DISMISSING ALL
OTHER CLAIMS AND DEFENDANTS
FOR FAILURE TO STATE A CLAIM**

19 Jose Garcia (“Plaintiff”) is a prisoner proceeding *pro se* and *in forma pauperis* with this
20 civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States
21 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

22 On October 10, 2019, the court entered [findings and recommendations](#), recommending
23 that this action proceed only against defendant Dr. Rodriguez on Plaintiff’s medical claim under
24 the Eighth Amendment, and that all other claims and defendants be dismissed from this action
25 based on Plaintiff’s failure to state a claim. (ECF No. 13.) Plaintiff was granted fourteen days
26 in which to file objections to the findings and recommendations. (*Id.*) The fourteen-day time
27 period has passed, and Plaintiff has not filed objections or any other response to the findings and
28 recommendations.

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

4 Therefore, based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 5 1. This action now proceeds only against defendant Dr. Rodriguez for failure to
6 provide adequate medical care under the Eighth Amendment;
- 7 2. All remaining claims and defendants are dismissed from this action;
- 8 3. Plaintiff's claims against Defendants for creating or implementing a flawed
9 policy, for retaliation, and for improperly handling Plaintiff's prison appeals are
10 dismissed from this action based on Plaintiff's failure to state a claim upon which
11 relief may be granted;
- 12 4. Defendants Dr. U. Baniga, California Correctional Health Care Services, and
13 Does #1-5 (Medical Provider Policy Makers) are dismissed from this action based
14 on Plaintiff's failure to state any claims against them upon which relief may be
15 granted; and
- 16 5. This case is referred back to the Magistrate Judge for further proceedings,
17 including initiation of service of process.

18 IT IS SO ORDERED.

19 Dated: November 21, 2019

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21 SENIOR DISTRICT JUDGE