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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM JAMES WALLACE, II,
Plaintiff,
v.
J. WHITE, et al.,
Defendants.

No. 1:20-cv-00844-NONE-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 16, 18)

Plaintiff William James Wallace, II is a state prisoner appearing *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 12, 2021, the assigned magistrate judge entered findings and recommendations recommending that this case be allowed to proceed on plaintiff’s claims against defendants Lopez, Wade, White, and John Doe for deliberate indifference to the allegedly unconstitutional conditions of plaintiff’s confinement in violation of his Eighth Amendment rights as alleged in the second amended complaint. (Doc. No. 18.) The findings and recommendations further recommended that all other defendants and claims be dismissed without prejudice. (*Id.*) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within twenty-one (21) days after service. (*Id.* at 10-11.) No objections have been filed, and the deadline to do so has expired.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 de novo review of this case. Having carefully reviewed the entire file, the court concludes that the
3 magistrate judge’s findings and recommendations are supported by the record and by proper
4 analysis.¹

5 Accordingly,

- 6 1. The findings and recommendations entered on January 12, 2021 (Doc. No. 18) are
7 adopted in full;
- 8 2. This case shall proceed on plaintiff’s claims against defendants Lopez, Wade,
9 White and John Doe for deliberate indifference to the allegedly unconstitutional
10 conditions of plaintiff’s confinement in violation of his Eighth Amendment rights
11 as alleged in the second amended complaint (Doc. No. 16);
- 12 3. All other defendants and claims are dismissed without prejudice

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20 ¹ The magistrate judge recommended that plaintiff’s claims concerning alleged unsanitary
21 conditions, raw sewage, and mold in his place of confinement be allowed to proceed, but that
22 plaintiff’s claims that he did not receive reasonable accommodations under the Americans with
23 Disabilities Act (“ADA”) be dismissed without prejudice due to non-compliance with Federal
24 Rules of Civil Procedure 18 and 20. The undersigned interprets the findings and
25 recommendations as recommending that plaintiff’s claims regarding his shoes be included within
26 the group of ADA claims that should be dismissed with prejudice. Specifically, plaintiff alleges
27 that he cannot wear regular shoes because of his disabilities and that has requested special
28 orthopedic shoes to facilitate his transfer in and out of his wheelchair, but that CDCR has failed to
provide him with appropriate footwear. (Doc. No. 16 at 3.) Although plaintiff asserts that it is
unsanitary for him to have no shoes, his central complaint with regard to shoes appears to be that
CDCR is not providing specific shoes to him as an accommodation for his disabilities. Plaintiff is
already proceeding on claims against CDCR and individual defendants in their official capacities
for violating the ADA, in part due to their alleged failure to provide him with orthotics. (*See*
Wallace v. CDCR, 1:20-cv-905, Doc. Nos. 20, 22, 27.)

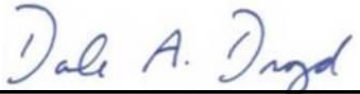
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4. The Clerk of Court is directed to reflect the dismissal of defendants D. Fernandez, H. Shirley, and Bowlin on the Court's docket, and to add defendants Lopez, Wade, and John Doe; and

5. This action is referred back to the magistrate judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: March 8, 2021


UNITED STATES DISTRICT JUDGE