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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CURTIS LEE HENDERSON, SR.,  
Plaintiff,  
v.  
S. CASTILLO, et al.,  
Defendants.

Case No. 1:20-cv-01199-AWI-SKO (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DISMISS CLAIMS AND DEFENDANT**

14-DAY DEADLINE

On March 12, 2021, the Court screened Plaintiff’s complaint and found that it states cognizable claims of deliberate indifference to health or safety under 42 U.S.C. § 1983 and cognizable claims under the California Bane Civil Rights Act (“Bane Act”), Cal. Civ. Code § 52.1, against Defendants Castillo and Tyler in their individual capacities. (Doc. 20.) The Court, therefore, directed Plaintiff to file a first amended complaint curing the deficiencies in his pleading, or to notify the Court that he wishes to proceed only on the claims found cognizable and to dismiss the remaining claims and defendant. (*Id.* at 10-11.)

On April 15, 2021, Plaintiff filed a notice that “he will proceed . . . on the claims found cognizable. . . .” (Doc. 23.) Accordingly, and for the reasons set forth in the Court’s screening order (Doc. 20), the Court RECOMMENDS that:

1. Defendant Flores be DISMISSED; and,
2. The claims in Plaintiff’s complaint be DISMISSED, except for the deliberate

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indifference claims under section 1983 and the claims under the Bane Act against Defendants Castillo and Tyler in their individual capacities.

These Findings and Recommendations will be submitted to the United States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days of the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned, "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may result in waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: April 19, 2021

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE