1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 DIONTAE JOHAN DUNCAN, Case No. 1:20-cv-01288-ADA-SKO (PC) 12 ORDER ADOPTING FINDINGS AND Plaintiff. RECOMMENDATIONS TO DISMISS 13 CERTAIN CLAIMS AND DEFENDANTS v. FROM PLAINTIFF'S SECOND AMENDED 14 **COMPLAINT** CALIFORNIA HEALTHCARE RECEIVERSHIP CORP., et al., (ECF No. 75) 15 Defendants. 16 17 18 Plaintiff Diontae Johan Duncan ("Plaintiff") is proceeding pro se and in forma pauperis in 19 this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States 20 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 21 On April 13, 2023, the assigned Magistrate Judge filed findings and recommendations, 22 recommending that Plaintiff's second amended complaint proceed only on his Eighth Amendment 23 deliberate indifference to serious medical needs claims against Defendant Marciel, Graywall, 24 Taylor, Gerderal and Jane Does #1 and #2. (See ECF No. 75 at 7-16.) Further, the Magistrate 25 Judge recommended that the remaining claims be dismissed, and that Defendants California 26 Healthcare Receivership Corp., Warden P. Phiffer, and Psychologist Rubbish be dismissed. (Id. at

16.) Plaintiff had fourteen days within service of the order in which to file any objections to the

findings and recommendations. (Id.) On April 21, 2023, Plaintiff filed his objections to the

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1 findings and recommendations. (ECF No. 77.) In his objections, Plaintiff appears to request the 2 Court to adopt in full the Magistrate Judge's findings and recommendations and explains how the 3 alleged actions in his complaint impact his wellbeing today. (*Id.* at 5.) 4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a 5 de novo review of this case. Having carefully reviewed the file, including Plaintiff's objections, 6 the Court finds the findings and recommendations to be supported by the record and proper 7 analysis. 8 Accordingly, 9 1. The findings and recommendations issued on April 13, 2023, (ECF No. 75), are ADOPTED in full; 10 11 2. This action will proceed *only* on the Eighth Amendment deliberate indifference to 12 serious medical needs claims pursuant to 42 U.S.C. § 1983 against Defendant Marciel, 13 Graywall, Taylor, Gerderal, and Jane Does #1 and #2 (Claim I) in Plaintiff's second 14 amended complaint; 15 3. The remaining claims in Plaintiff's second amended complaint are DISMISSED; 16 4. Defendants California Healthcare Receivership Corp., Warden P. Phiffer, and 17 Psychologist Rubbish are DISMISSED from this action; and 18 5. The matter is referred back to the Magistrate Judge for further proceedings. 19 20 IT IS SO ORDERED. 21 Dated: May 31, 2023 22 23 24 25 26

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