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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

L. C. CUNNINGHAM,
Plaintiff,

v.

P. HUMPHEY, et al.,
Defendants.

Case No. 1:23-cv-00564-SAB (PC)

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN A DISTRICT
JUDGE TO THIS ACTION

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS AND DEFENDANTS

(ECF No. 9)

Plaintiff L.C. Cunningham is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On April 26, 2023, the Court screened Plaintiff’s complaint, and found that he stated a cognizable a cognizable failure to protect claim against Defendants Lascina and Murphy. (ECF No. 8.) However, Plaintiff failed to state any other cognizable claims. Plaintiff was granted the opportunity to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (Id.) On May 8, 2023, Plaintiff filed a notice of intent to proceed on the claim found to be cognizable. (ECF No. 9.)

Accordingly, it is HEREBY ORDERED that the Clerk of the Court shall assign a District Judge to this action.

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1 Further, it is HEREBY RECOMMENDED that:

- 2 1. This action proceed against Defendants Lascina and Murphy for failure to protect
- 3 in violation of the Eighth Amendment; and
- 4 2. All other claims and Defendants be dismissed from the action for failure to state a
- 5 cognizable claim for relief.

6 These Findings and Recommendations will be submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14)**
8 **days** after being served with these Findings and Recommendations, Plaintiff may file written
9 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
10 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
11 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834,
12 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

13
14 IT IS SO ORDERED.

15 Dated: May 10, 2023


UNITED STATES MAGISTRATE JUDGE