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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY E. MACK,

No. 2:05-cv-02134-MCE-CMK P

Plaintiff,

vs.

ORDER

MARSHA ONA, et al.,

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On November 21, 2008, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. Timely objections to the findings and recommendations have been filed.¹

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¹ Defendant C

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304,
2 this court has conducted a de novo review of this case. Having carefully reviewed the entire file,
3 the court finds the findings and recommendations to be supported by the record and by proper
4 analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The findings and recommendations filed November 21, 2008, are adopted in full;
7 2. Defendants' motion to dismiss (Doc. 45) is granted in part and denied in part;
8 3. Defendant Baroya's motion to dismiss (Doc. 50) is denied;
9 4. Defendant Hynum's motion to dismiss (Doc. 53) is granted;
10 5. Defendant Centeno's motion to dismiss (Doc. 70) for failure to state a claim and
11 statute of limitations is denied;

12 6. Defendants' motions to dismiss on the grounds that plaintiff's claims are barred
13 by the statute of limitations are granted, without leave to amend, as to those claims arising prior
14 to October 24, 2001;

15 7. Defendants Hollie, Krossa, Lucine, Parkinson, Thor, Ona, Parker and Hynum,
16 referred to as the SVSP defendants, are dismissed from this action, and the Clerk of the Court is
17 directed to terminate these individuals as defendants to this action;

18 8. Defendants' motions to dismiss on the grounds that plaintiff's claims are barred
19 by the statute of limitations are denied as to those claims arising after October 24, 2001;

20 9. Defendant Moor is dismissed from this action for plaintiff's failure to substitute
21 pursuant to Rule 25(a)(1), and the Clerk of the Court is directed to terminate this individual as a
22 defendant to this action;

23 10. Plaintiff's claim for injunctive relief is dismissed as barred by the statute of
24 limitations;

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11. This action shall proceed on plaintiff's Eighth Amendment violation claims, and any state law claim for medical malpractice he may have raised, against defendants Baroya, Baughman, Hirsch, Kordan, O'Brien, Vo, Centeno, Turella, Latteri and Penner only; and

12. Defendants Baroya, Baughman, Hirsch, Kordan, O'Brien, Vo, Centeno and Turella are directed to file an answer within 20 days.

Dated: January 26, 2009


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE