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

DAVID WILSON,

Plaintiff,

No. 2:07-cv-1192 GEB DAD (PC)

vs.

JAMES TILTON, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on plaintiff’s claim, raised in his fourth amended complaint, that defendants Hubbard, McGahey, Benton, Brida, and Grannis violated plaintiff’s rights under the Eighth Amendment by acting with deliberate indifference to his mental health needs by forcing him to live in a double cell. See Order filed October 6, 2009 (Doc. No. 23).¹

On April 18, 2011, plaintiff filed a motion for appointment of an impartial psychiatric expert to evaluate the adequacy of mental health care being provided to him in by the

¹ Plaintiff’s claims against one other defendant served in this action, defendant Swan, have been dismissed without prejudice due to plaintiff’s failure to exhaust administrative remedies prior to filing suit.

1 California Department of Corrections and Rehabilitation (CDCR). In that motion, plaintiff
2 contends that he is receiving mental health care at the clinical correctional case management
3 system (CCCMS) level of care and is seen for mental health care only once every ninety days,
4 which he contends is inadequate. However, the Eighth Amendment claims on which this action
5 is proceeding arise from events which allegedly occurred in 2007 when plaintiff was part of the
6 Enhanced Outpatient Program (EOP).² Accordingly, the issue presented by this motion which
7 focuses on the treatment received by plaintiff during a later period of time through the CCCMS
8 are beyond the scope of the claims raised by plaintiff in his fourth amended complaint. For that
9 reason, plaintiff's motion will be denied.

10 In accordance with the above, IT IS HEREBY ORDERED that plaintiff's April
11 18, 2011 motion for appointment of impartial experts (Doc. No. 69) is denied.

12 DATED: January 6, 2012.

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16 DALE A. DROZD
17 UNITED STATES MAGISTRATE JUDGE

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26 ² In separate findings and recommendations being issued simultaneously with this order
the court has recommended that summary judgment be granted in favor of defendants on
plaintiff's claims arising from his care in 2007 through the EOP.