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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEWART MANAGO,
Plaintiff,
v.
BRAD WILLIAMS, et al.,
Defendants.

No. 2:07-cv-2290-TLN-KJN-P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 13, 2013, the magistrate judge filed amended findings and recommendations herein (ECF No. 259),¹ which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. All parties filed objections (ECF Nos. 262, 264, 265), and all parties filed authorized responses thereto (ECF Nos. 268, 269, 271). All objections and replies have been considered by the court.

This court reviews de novo those portions of the proposed findings of fact to which an objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore

¹ The findings and recommendations were amended solely for the purpose of correcting a citation to Federal Rule of Civil Procedure 56.

1 Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982); see
2 also Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed
3 findings of fact to which no objection has been made, the court assumes its correctness and
4 decides the motions on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th
5 Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi
6 Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983).

7 The court has reviewed the applicable legal standards and, good cause appearing,
8 concludes that it is appropriate to adopt the proposed amended findings and recommendations in
9 full.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. The Amended Findings and Recommendations, filed March 13, 2013 (ECF No. 259),
12 are adopted in full.

13 2. Defendant Brockett's motion for summary judgment (ECF No. 183), is denied in its
14 entirety.

15 3. The motion for summary judgment filed by the remaining defendants (ECF No. 164),
16 is granted in part and denied in part, as follows:

17 a. Summary judgment is granted for defendants Williams, Shannon, Joseph, Garcia,
18 Tinseth, Wachter, Morrow, Hill and Gold, who are dismissed from this action.

19 b. Summary judgment is granted for all remaining defendants on each of plaintiff's First
20 Amendment retaliation claims.

21 c. Summary judgment is denied, and this action shall proceed, on the following Eighth
22 Amendment claims, against the following defendants:

23 i. Plaintiff's claims against defendant Brockett, for alleged sexual misconduct;

24 ii. Plaintiff's claims against defendants Kelly and Jaffee, based on theories of
25 deliberate indifference to serious mental health needs, failure to protect, and supervisory liability;

26 iii. Plaintiff's claims against defendant Martin, based on theories of deliberate
27 indifference to serious mental health needs, and failure to protect, but not supervisory liability;

28 and

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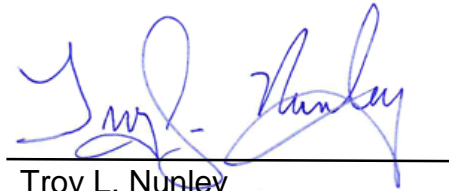
iv. Plaintiff's claims against defendants Chapman, Vance and Kennedy based on an alleged failure to protect.

4. Pursuant to the surviving claims, this action shall therefore proceed against defendants Brockett, Kelly, Jaffee, Martin, Chapman, Vance and Kennedy.

SO ORDERED.

Dated: January 15, 2014

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Troy L. Nunley
United States District Judge