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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY NORWOOD,
Plaintiff,
v.
T. BYERS, et al.,
Defendants.

No. 2:09-cv-2929 LKK AC 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 November 22, 2013, the magistrate judge filed findings and recommendations herein 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 twenty-one days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and, with one exception, finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. The court agrees with the magistrate judge’s finding that plaintiff has failed to allege any facts which indicate any agreement between defendant NP Kaur and any other medical personnel and that this defect cannot be cured by amendment, see Findings and Recommendations (ECF No. 110) at 4,

1 and on that basis dismisses the conspiracy allegations without leave to amend. The court declines
2 to adopt the magistrate judge's alternative rationale that the conspiracy claim also fails because
3 two other named defendants with whom defendant NP Kaur allegedly conspired have been
4 dismissed from this lawsuit. See id. at 4:13-15.

5 Accordingly, IT IS HEREBY ORDERED that:


6 1. Except as noted in this order, the findings and recommendations filed November 22,
7 2013, are adopted in full;

8 2. Plaintiff's conspiracy claim alleged in the third amended complaint is dismissed with
9 prejudice for failure to state a claim upon which relief may be granted;

10 3. Plaintiff's renewed Eighth Amendment claims against defendants Nanganama and
11 Byers are dismissed with prejudice pursuant to the previous orders of this court, ECF Nos. 47,
12 107;

13 4. Within thirty days of this order, defendant Kaur shall file a response to the Eighth
14 Amendment claim raised in plaintiff's third amended complaint.

15 DATED: January 8, 2014.

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19 LAWRENCE K. KARLTON
20 SENIOR JUDGE
21 UNITED STATES DISTRICT COURT
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