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

ANTHONY TURNER,

Plaintiff,

No. 2: 09-cv-3445 GEB KJN P

vs.

WILLIAM G. DOUGLAS, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

On September 2, 2010, the undersigned found that plaintiff's amended complaint stated the following colorable claims for relief: 1) defendants Jencks and Douglas allegedly failed to provide pain medication; 2) defendant Valentine allegedly failed to treat plaintiff's staph infection.

The undersigned dismissed the following claims with leave to amend:

- 1) defendants Jencks, Nurse Lilly, Lisa, Genine,Carolynn and Celly Chan allegedly withheld and obstructed plaintiff's grievances; 2) defendant Jencks allegedly failed to provide plaintiff with a copy of his medical records; 3) defendant Nurse Lilly allegedly prescribed Motrin; 4) during booking, plaintiff allegedly told defendant Tony that he had been in a car accident; and 5) all claims against defendants DeSilva, Owens and Prieto. Plaintiff was granted thirty days to file a second amended complaint. Plaintiff was informed that he if he did not file a second amended

1 complaint but instead returned the service forms for the colorable claims against defendants
2 Jencks, Douglas and Valentine, the court would construe his election to proceed as a consent to
3 dismissal of his defective claims.

4 Plaintiff did not file a second amended complaint. Instead, he submitted service
5 forms for his colorable claims. Accordingly, the undersigned recommends that those claims
6 found not colorable in the September 2, 2010 order be dismissed.

7 Accordingly, IT IS HEREBY RECOMMENDED that, for the reasons stated in
8 the September 2, 2010 order, the following claims contained in the amended complaint be
9 dismissed: 1) defendants Jencks, Nurse Lilly, Lisa, Genine,Carolynn and Celly Chan allegedly
10 withheld and obstructed plaintiff's grievances; 2) defendant Jencks allegedly failed to provide
11 plaintiff with a copy of his medical records; 3) defendant Nurse Lilly allegedly prescribed
12 Motrin; 4) during booking, plaintiff allegedly told defendant Tony that he had been in a car
13 accident; and 5) all claims against defendants DeSilva, Owens and Prieto.

14 These findings and recommendations are submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
16 one days after being served with these findings and recommendations, plaintiff may file written
17 objections with the court. The document should be captioned "Objections to Magistrate Judge's
18 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
19 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
20 F.2d 1153 (9th Cir. 1991).

21 DATED: October 7, 2010

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24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE
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