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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMAAL THOMAS,
Plaintiff,
v.
ANTIPOV, et al.,
Defendants.

No. 2:11-cv-1138-MCE-EFB 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 February 12, 2015, 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 fourteen days. Neither party timely filed objections to the findings and recommendations. On March 20, 2015, this Court adopted the findings and recommendations and granted in part defendants’ motion for summary judgment and denied plaintiff’s counter-motion for summary judgment. That same day, plaintiff’s objections to the findings and recommendation were filed on the court’s docket.

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1 In an abundance of caution, the Court will vacate the March 20, 2015 order adopting the
2 findings and recommendations and reconsider them in light of plaintiff's objections. See Fed. R.
3 Civ. P. 59(e) and 60(b).

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
5 court has conducted a de novo review of this case, including plaintiff's objections to the findings
6 and recommendations of the magistrate judge. Having carefully reviewed the entire file, the court
7 finds the findings and recommendations to be supported by the record and by proper analysis. In
8 light of plaintiff's objections, however, the findings and recommendations will be adopted as
9 modified herein.

10 Plaintiff objects to the sentence in the findings and recommendations that reads "There is
11 no evidence to show that Ma was aware of any allergies to either medication yet prescribed it
12 anyway." See ECF No. 131 at 17. Plaintiff's objection is based on medical records that
13 document his claimed allergy to penicillin. See ECF No. 133 (referring to ECF No. 122, Exs. E
14 & R). The documentation of a penicillin allergy, however, does not undermine the analysis in the
15 findings and recommendations, which explain that defendant Ma did not see any indication in
16 plaintiff's medical chart that plaintiff was genuinely allergic to any medication. See ECF No.
17 131 at 17. For the sake of clarity, the sentence to which plaintiff objects is modified to read
18 "There is no evidence to show that Ma was aware of any legitimate allergies to either medication
19 yet prescribed it anyway." See ECF No. 131 at 17.

20 Accordingly, IT IS HEREBY ORDERED that that the order entered on March 20, 2015
21 (ECF No. 132) adopting in full the findings and recommendations, granting in part defendants'
22 motion for summary judgment and denying plaintiff's counter-motion for summary judgment is
23 CONFIRMED as herein modified.

24 Dated: April 15, 2015

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27 MORRISON C. ENGLAND, JR., CHIEF JUDGE
28 UNITED STATES DISTRICT COURT