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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND D. JACKSON,  
Plaintiff,  
v.  
STEVEN PLETCHER, et al.,  
Defendants.

No. 2: 11-cv-1157 JAM KJN P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding through counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. For the following reasons, the undersigned recommends that plaintiff's motion to stay (ECF No. 226) be denied.

On November 6, 2013, the court granted defendants' motion to dismiss except for the claim that defendant Osman provided inadequate medical care. (ECF No. 220.) On November 21, 2013, plaintiff filed a notice of appeal of the November 6, 2013 order. (ECF No. 222.) On December 12, 2013, defendant Osman filed a summary judgment motion. (ECF No. 225.)

On January 3, 2014, plaintiff filed a motion to stay this action pending resolution of his appeal of the November 6, 2013 order. (ECF No. 226.) On January 28, 2014, plaintiff filed a motion requesting a certificate of appealability for his appeal. (ECF No. 232.) On March 25, 2014, the undersigned recommended that plaintiff's motion for a certificate of appealability be denied. (ECF No. 236.)

1 On March 25, 2014, the Ninth Circuit Court of Appeals dismissed plaintiff's appeal on the  
2 grounds that counsel failed to perfect the appeal as prescribed by the Federal Rules of Appellate  
3 Procedure. (ECF No. 237.) Thus, the motion to stay this action pending resolution of the appeal  
4 is moot because the Ninth Circuit dismissed plaintiff's appeal.<sup>1</sup>

5 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's motion to stay this action  
6 (ECF No. 226) be denied.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
12 objections shall be filed and served within fourteen days after service of the objections. The  
13 parties are advised that failure to file objections within the specified time may waive the right to  
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: April 1, 2014

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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28 <sup>1</sup> Following adoption of these findings and recommendations, the court will set a briefing  
schedule for defendant Osman's summary judgment motion.