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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EZEQUIEL ROMO,
Plaintiff,
v.
MATTHEW CATE, et al.,
Defendants.

No. 2:11-cv-2898 GEB DAD 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 August 29, 2014, the magistrate judge filed findings and recommendations that were served on all parties and contained notice that any objections were to be filed within fourteen days. The magistrate judge amended his findings and recommendations in an order dated September 16, 2014. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 29, 2014, are adopted as amended by the magistrate judge's order of September 16, 2014.

2. The motion to dismiss (Doc. No. 47) is granted in part and denied in part, as follows:

a. The motion to dismiss the claims for inadequate medical care, failure to train and supervise, and violation of the Equal Protection clause is granted as to all defendants.

b. The motion to dismiss the claim for retaliatory placement on contraband surveillance watch is granted as to all defendants except Virga and Stewart. As to defendants Virga and Stewart, the motion to dismiss that claim is denied.

c. The motion to dismiss the claim for retaliatory withholding of legal materials is granted as to all defendants except for defendants Stewart, Buchanan, Engellener, Mendoza, E. Baker, Montez and Hood. As to defendants Stewart, Buchanan, Engellener, Mendoza, E. Baker, Montez and Hood, the motion to dismiss that claim is denied.

d. The motion to dismiss the claim for deprivation of federal due process is granted as to all defendants except defendants Virga and Stewart. As to defendants Virga and Stewart, the motion to dismiss that claim is denied.

e. The motion to dismiss all claims alleged under state law is granted as to all defendants except for the claim for violation of due process under the California Constitution. As to that claim, all defendants are dismissed except for defendants Virga and Stewart, as to whom the motion to dismiss the state law claim for deprivation of due process is denied.

f. The motion to dismiss the Eighth Amendment claim for unconstitutional conditions of confinement is granted as to defendants J. Baker, Williams, Holstrom and Walker. As to all other defendants, the motion to dismiss the Eighth Amendment claim for unconstitutional conditions of confinement is denied.

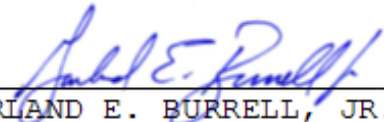
g. The motion to dismiss all claims based on the processing or review of plaintiff's underlying administrative inmate appeals is granted as to all defendants.

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h. Defendants J. Baker, Williams, Holstrom and Walker are dismissed from this
action.

Dated: September 30, 2014



GARLAND E. BURRELL, JR.
Senior United States District Judge

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