

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GOLDYN COOPER,
Plaintiff,
v.
SCOTT HEATLEY, et al.,
Defendants.

No. 2:12-cv-00602 KJM DAD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983 against defendants Dr. Scott Heatley, Dr. H. Walter Pepper and Terri Weinholdt. On August 15, 2013, defendant H. Walter Pepper filed a motion to dismiss plaintiff’s complaint for failure to state a cognizable claim against him. When plaintiff failed to file a timely opposition to the motion, the court ordered plaintiff to file his opposition or statement of non-opposition within thirty days. (ECF No. 28.) Following plaintiff’s September 30, 2013 request for an extension of time, the court again ordered plaintiff to file his opposition. (ECF No. 30.) On September 30, 2013 and October 17, 2013, plaintiff filed statements of non-opposition to defendant Pepper’s motion to dismiss. (ECF No. 29 at 2 and 31.)

In light of plaintiff’s statement of non-opposition to the granting of the pending motion, IT IS HEREBY RECOMMENDED that:

////

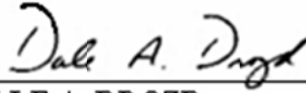
1 1. Defendant H. Walter Pepper's August 15, 2013 motion to dismiss (ECF No. 22) be
2 granted;

3 2. Defendant H. Walter Pepper be dismissed from this action; and

4 3. This action shall proceed as to defendants Scott Heatley and Terry Weinholdt only.

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

13 Dated: November 6, 2013

14 
15 _____
16 DALE A. DROZD
17 UNITED STATES MAGISTRATE JUDGE

17 DAD:4
18 coop602.mtdPepper

19
20
21
22
23
24
25
26
27
28