UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

IRA DON PARTHEMORE,

Plaintiff,

v.

B. KISSEL et al.,

Defendants.

No. 2:13-cv-00819 KJM AC 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 6, 2015, the magistrate judge filed findings and recommendations, 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. ECF No. 49. Neither party has filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed March 6, 2015 (ECF No. 49), are adopted in full.

2. Defendants' motion for summary judgment (ECF No. 42) is granted in part and denied in part as follows:

a. Granted as to all claims against defendants Kissel, Thomas, Costa, Sherrard, Heintschel, Reaves, Toor, Malakkla, Virk, and Neal and these defendants are dismissed without prejudice for failure to exhaust administrative remedies for the claims against them.

b. Granted as to the claim that defendant Soltanian refused to issue a medical hold and the claim is dismissed without prejudice for failure to exhaust administrative remedies.

c. Denied as to the claim that defendant Soltanian refused to order shoulder surgery.

d. Denied as to defendants Smith and Heatley.

3. Defendants' motion to dismiss (ECF No. 43) is denied.

4. Defendants Soltanian, Smith, and Heatley are ordered to answer the remaining claims within thirty days from the date of this order.

DATED: March 30, 2015.

UNITED STATES DISTRICT JUDGE