

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
EASTERN DISTRICT OF CALIFORNIA

STEWART MANAGO,
Plaintiff,
v.
JEFFFREY A. BEARD, et al.,
Defendants.

No. 2:13-cv-00956-MCE-KJN

ORDER

In bringing the present Motion for Relief, Plaintiff Dean C. Rodriguez (“Plaintiff”), a state prisoner proceeding in forma pauperis, asks that the undersigned to reverse the Magistrate Judge’s September 30, 2015 Order in this matter, to the extent that Order found that Plaintiff’s claims against certain Defendants were deficient. While the Magistrate Judge found that Plaintiff’s Amended Complaint (ECF No. 16) stated a cognizable claim for relief under the Eighth Amendment (failure to protect) against Defendants Lo, Drake, and Schultze in connection with the inmate assault on Plaintiff that took place on February 16, 2009, and while the Magistrate further found that Plaintiff had similarly alleged a cognizable claim against another Defendant, Masterson, in connection with a second assault that occurred on September 8, 2009, the Magistrate Judge concluded that Plaintiff’s allegations against the remaining defendants did not

1 state a cognizable claim for failure to protect.

2 With respect to the remaining Defendants, the Magistrate Judge found that
3 Plaintiff's vague and conclusory allegations that he told said Defendants that "some
4 corrupt correctional staff" were telling other inmates that Plaintiff was a "snitch" were
5 insufficient, without more, to rise to the level of an Eighth Amendment violation. Nor,
6 according to the Magistrate, were Plaintiff's failure to train/supervise and conspiracy
7 claims any more persuasive since Plaintiff identified no causal link between any
8 supervisory Defendants and his claimed constitutional violations, and further failed to
9 allege any facts evidencing a conspiracy.

10 In reviewing a magistrate judge's determination, the assigned judge shall apply
11 the "clearly erroneous or contrary to law" standard of review set forth in Local Rule
12 303(f), as specifically authorized by Federal Rule of Civil Procedure 72(a) and 28 U.S.C.
13 § 636(b)(1)(A).¹ Under this standard, the Court must accept the Magistrate Judge's
14 decision unless it has a "definite and firm conviction that a mistake has been committed."
15 Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for So. Cal., 508
16 U.S. 602, 622 (1993). If the Court believes the conclusions reached by the Magistrate
17 Judge were at least plausible, after considering the record in its entirety, the Court will
18 not reverse even if convinced that it would have weighed the evidence differently.
19 Phoenix Eng. & Supply Inc. v. Universal Elec. Co., Inc., 104 F.3d 1137, 1141 (9th Cir.
20 1997).

21 After reviewing the entire file, this Court cannot say that the Magistrate Judge's
22 decisions outlined above were clearly erroneous. Instead, having reviewed and
23 considered this matter at some length, the court finds that the Magistrate Judge's
24 decision was correct. In advocating reconsideration, Plaintiff does little more than argue
25 that various grievances, filings and/or appeals submitted by Plaintiff to prison staff, along

26
27 ¹ Federal Rule of Civil Procedure 72(a) directs the district court judge to "modify or set aside any
28 portion of the magistrate judge's order found to be clearly erroneous or contrary to law." Similarly, under
28 U.S.C. § 636(b)(1)(A), the district judge may reconsider any pretrial order "where it is shown that the
magistrate's order is clearly erroneous or contrary to law."

1 with the prison's investigation thereof, provides the requisite factual underpinnings to his
2 claims. The Court finds, however, that repeating his assertions that staff were spreading
3 rumors in this manner, without further support, is inadequate to justify claims pursued
4 against the recipients of the materials in question. Plaintiff's Motion for Reconsideration
5 (ECF No. 30) is accordingly DENIED.

6 IT IS SO ORDERED.

7 Dated: February 10, 2016

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28


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