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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL E. SCHERFFIUS,
Plaintiff,
v.
CHRISTOPHER SMITH, et al.,
Defendants.

No. 2:13-cv-1277 DB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. He alleges defendants were deliberately indifferent to his medical needs. Plaintiff moves for a stay of these proceedings based on his current medical issues. (ECF No. 51.) His motion includes an August 14, 2017 letter from his doctor describing major surgery plaintiff will undergo and plaintiff's many health problems. (*Id.* at 3.) The doctor noted that a reassessment in 90 days would be appropriate.

Defendants do not oppose plaintiff's motion. (*See* ECF No. 53.) They suggest a reevaluation of the need for a stay within 120 days. The court finds good cause for a stay of these proceedings.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's August 22, 2017 motion for an extension of time to file a response to defendants' summary judgment motion (ECF No. 50) is denied as moot;

1 2. Because all parties have not consented to the jurisdiction of a magistrate judge, the Clerk
2 of the Court shall assign a district judge to this case;

3 Further, IT IS RECOMMENDED that

- 4 1. Plaintiff's motion for a stay (ECF No. 51) be granted;
5 2. This case be stayed; and
6 3. Plaintiff be ordered to notify the court within 120 days about the status of his health
7 and whether the stay should remain in place.

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

16 Dated: September 12, 2017

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19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

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25 DLB:9
26 DLB1/prisoner-civil rights/sche1277.fr stay

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