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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LONZELL GREEN,  
Plaintiff,  
v.  
ANDREW NANGALAMA, et al.,  
Defendants.

No. 2:13-cv-2390-KJM-CMK-P

ORDER

Plaintiff, a prisoner proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by Eastern District of California local rules.

On September 13, 2017, the Magistrate Judge filed findings and recommendations (“F&Rs”), which were served on the parties and which contained notice that the parties may file objections within a specified time. F&Rs, ECF No. 40. Plaintiff filed objections to the findings and recommendations. ECF No. 44. Defendants responded. ECF No. 45. Plaintiff then, without permission, filed an objection to defendant’s response. ECF No. 46. Defendant has since moved to strike plaintiff’s second objection. ECF No. 47. Plaintiff opposed the motion to strike. ECF No. 48. The court is persuaded by plaintiff’s argument that he is entitled to the benefits of the mailbox rule, and therefore considers plaintiff’s objections here.

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1                   In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule  
2 304(f), this court has conducted a *de novo* review of this case. Having independently reviewed  
3 the file and relevant authority, the court has determined that based on this record, no reasonable  
4 juror could find defendant was deliberately indifferent to plaintiff's medical needs. The court  
5 therefore adopts the findings and recommendations as to this conclusion. *See id.* at 16. Because  
6 the court need not reach the question of qualified immunity, the court declines to adopt the  
7 portion of the findings and recommendations addressing qualified immunity. *Id.* at 16-19.

8                   IT IS HEREBY ORDERED that:

- 9                   1. The findings and recommendations filed September 13, 2017 (ECF No. 40),  
10                   are ADOPTED as to all conclusions except those pertaining to qualified  
11                   immunity;
- 12                   2. Defendant's summary judgment motion (ECF No. 32) is GRANTED;
- 13                   3. Plaintiff's summary judgment motion (ECF No. 30) is DENIED;
- 14                   4. Defendant's motion to strike (ECF No. 47) is DENIED;
- 15                   5. The Clerk of the Court is DIRECTED to enter judgment for defendant and  
16                   close this case.

17 DATED: September 28, 2018.

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20 UNITED STATES DISTRICT JUDGE  
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