

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

TAJHIKEEM WOODS,  
Plaintiff,  
v.  
RODDRICK, et al.,  
Defendants.

No. 2:14-cv-2458 MCE AC P

ORDER and  
FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner at the California Health Care Facility (CHCF) in Stockton, has filed a motion for protective order in this action,<sup>1</sup> informing the court that he attempted suicide on July 30, 2015, due to the “verbal/mental abuse” of correctional staff at his previous institution, including “us[ing] his mental disorder and his confidential mental health information as a tool to torture the plaintiff.” ECF No. 27 at 1. Plaintiff also alleges physical abuse: “When petitioner woke up, he wasn’t receiving CPR. He was being beat by Correctional Officer Zaragosa et al., . . . [and] still [hasn’t] received proper medical attention . . . .” Id. at 1-2. Plaintiff states that he “is in a vary fragil mental state of mind” (sic), and asks the court to place him in protective custody; order medical care including x-rays of his foot (which he believes was broken by the recent alleged beating); and to commence substantive review of these matters without plaintiff

<sup>1</sup> Although plaintiff’s motion was received by the court on September 10, 2010, it was initially mistakenly filed in the wrong case. See Case No. 15cv0564 GEB AC P, ECF No. 21.

1 attempting to exhaust an administrative grievance. Id. at 1-3.

2 In addition, plaintiff has submitted exhibits of prior grievances that he has attempted to  
3 pursue related to the matters addressed in the First Amended Complaint (ECF No. 15). These  
4 documents, in tandem with plaintiff's objections (ECF No. 23) to the undersigned's Findings and  
5 Recommendations filed June 12, 2015 (ECF No. 20), indicate that plaintiff may have been  
6 prevented from pursuing his administrative remedies due to circumstances beyond his control.  
7 Judgment was based on a finding that plaintiff had commenced the action prior to administrative  
8 exhaustion (ECF Nos. 20, 24). The dismissal was accordingly without prejudice. Id. It now  
9 appears that the Findings and Recommendations were issued on the basis of a record related to  
10 the exhaustion issue that was incomplete due to circumstance beyond plaintiff's control.

11 For these reasons, the undersigned will recommend that the judgment entered in this case  
12 on August 20, 2015 (ECF No. 25), be vacated for further consideration of plaintiff's First  
13 Amended Complaint (ECF No. 15).

14 More immediately, the Office of the Attorney General will be directed to inquire  
15 regarding plaintiff's immediate safety, his alleged urgent need for medical care, and his current  
16 mental status. Because defendant has not yet been served process in this case, this order will be  
17 directed to a Supervising Deputy Attorney General.

18 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

19 1. The Office of the California Attorney General is directed to contact CHCF authorities  
20 forthwith, to determine the present status of plaintiff's safety and mental and physical treatment  
21 needs.

22 2. Because no defendant has been served process in this case, the Clerk of Court is  
23 directed to fax a copy of this order to the Office of the California Attorney General, Attention:  
24 Supervising Deputy Attorney General Monica Anderson.

25 3. Ms. Anderson or her designee is directed to file a status report with the court within  
26 fourteen (14) days after the filing date of this order, and to serve a copy of the report on plaintiff.

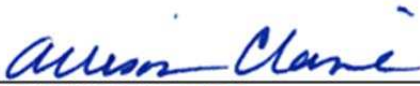
27 In addition, IT IS HEREBY RECOMMENDED that the judgment entered in this action  
28 August 20, 2015, ECF No. 25 (and therefore the Findings and Recommendations filed June 12,

1 2015, ECF No. 20), be vacated for purposes of further consideration of plaintiff's First Amended  
2 Complaint (ECF No. 15).

3 This recommendation is submitted to the United States District Judge assigned to this  
4 case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Although this recommendation benefits  
5 plaintiff, he is entitled to file written objections within fourteen days after service of this order,  
6 captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file  
7 objections within the specified time may waive the right to appeal the district court's order.

8 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: September 18, 2015

10   
11 ALLISON CLAIRE  
12 UNITED STATES MAGISTRATE JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28