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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA N. HARRELL,
Plaintiff,
v.
WAL-MART, et al.,
Defendant.

No. 2:15-cv-0576 JAM AC (PS)

ORDER

Plaintiff, proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983.¹ The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 13, 2016, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within 21 days. ECF No. 20. Plaintiff has filed objections to the findings and recommendations. ECF No. 22.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper

¹ Although plaintiff indicates that he is in custody, he does not seek habeas relief, nor does he challenge the conditions of his confinement.

1 analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed April 13, 2016 (ECF No. 20), are adopted in
4 full;

5 2. All claims against defendants Figaro, Garrison and Judge Bowers, are
6 DISMISSED without leave to amend, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) (fails to state a
7 claim), (iii) (claim asserted against immune defendant);

8 3. The malicious prosecution claim against Belyea is DISMISSED IN PART, without
9 leave to amend, but only to the degree it is based upon alleged perjury at the “probable
10 cause” hearing; and

11 4. Plaintiff is permitted to proceed against Belyea on (a) the malicious
12 prosecution claim, to the degree it is based upon the submission of an allegedly false police
13 report, and (b) the false arrest claim.

14 DATED: June 22, 2016

15 /s/ John A. Mendez

16 UNITED STATES DISTRICT COURT JUDGE

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