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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL WINDHAM, JR.,  
Plaintiff,  
v.  
CALIFORNIA MEDICAL FACILITY, et  
al.,  
Defendants.

No. 2:15-1058 MCE CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. On May 13, 2015, this action was removed to this court from the Superior Court of Solano County by defendants Sabin and Yun. On August 26, 2015, the court dismissed plaintiff’s complaint with leave to amend. Plaintiff has now filed an amended complaint.

The court is required to screen complaints brought by prisoners where, as here, the prisoner seeks relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

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1 The court has conducted the required screening and finds that plaintiff's amended  
2 complaint states actionable claims for violations of the Eighth Amendment and for negligence in  
3 violation of California law against defendants Sabin and Yun. Plaintiff fails to state a claim  
4 against defendant Warden Duffy as plaintiff fails to show that he did anything which proximately  
5 caused any of the injuries alleged.

6 In accordance with the above, IT IS HEREBY ORDERED that defendants Sabin and Yun  
7 file a responsive pleading concerning plaintiff's remaining Eighth Amendment and negligence  
8 claims appearing in plaintiff's amended complaint within fourteen days, or file a document  
9 indicating their intent to stand on the answer filed October 5, 2015 within fourteen days.

10 IT IS HEREBY RECOMMENDED that defendant Duffy be dismissed.

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

19 Dated: January 27, 2016

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21 CAROLYN K. DELANEY  
22 UNITED STATES MAGISTRATE JUDGE

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