UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DARIUS SIMS,

Plaintiff,

v.

CHRISTOPHER SMITH, et al.,

Defendants.

No. 2:16-cv-2329 KJM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 26, 2019, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. ECF No. 15. Plaintiff has not filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. See *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate]

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court . . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

1. The findings and recommendations filed August 26, 2019 (ECF No. 15), are adopted in full;

2. For the reasons set forth in the June 26, 2019 screening order (ECF No. 10 at 5-8), all claims against defendants Smith, Heatley, Horowitz, and Hawkins, and all claims against defendant Vaughn except for the claims the he failed to treat plaintiff’s migraines and submit his pain intake information are dismissed without prejudice; and

3. This matter is referred back to the assigned magistrate judge for all further pretrial proceedings.

DATED: October 1, 2019.

UNITED STATES DISTRICT JUDGE