Doc. 70 (PC) Hicks v. Arya 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 MICHAEL J. HICKS, No. 2:16-cv-2465-TLN-KJN 12 Plaintiff, 13 **ORDER** v. 14 AFSHIN ARYA, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On May 17, 2018, the magistrate judge filed findings and recommendations herein which 21 were served on all parties and which contained notice to all parties that any objections to the 22 findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections to the findings and recommendations. 23 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this 24 25 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the 26 Court finds the findings and recommendations to be supported by the record and by proper 27 analysis. ///// 28 1

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Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed May 17, 2018, are ADOPTED in full;
- 2. Defendant Arya's summary judgment motion (ECF No. 46) on the grounds that Plaintiff failed to exhaust administrative remedies as to his claims regarding hepatitis C and Celebrex is GRANTED; Defendant Arya's summary judgment motion on the grounds that Plaintiff failed to exhaust administrative remedies as to his claim regarding cervical traction is DENIED; Defendant's summary judgment motion as to the merits of Plaintiff's claim regarding cervical transfer is DENIED without prejudice to renewal at a later state of these proceedings;
- 3. Plaintiff's motion to file a second amended complaint (ECF No. 47) is GRANTED in part and DENIED in part;
- 4. Plaintiff's motion to file a second amended complaint raising new claims regarding treatment for hepatitis C and denial of adequate pain medication is DENIED;
- 5. Plaintiff's motion to file a second amended complaint is GRANTED as to his claims alleging that Defendants Arya, Bodenheimer, Hopkins and Felder denied his request to be transferred in order to receive cervical traction;
- 6. In the alternative, Plaintiff's claims that Defendants Bodenheimer, Sahota, Knipp and Hopkins denied Plaintiff adequate pain medication, contained in the proposed second amended complaint, are DISMISSED for failing to state potentially colorable claims for relief.

Troy L. Nunley

United States District Judge

Dated: September 20, 2018

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