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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL AARON WITKIN,
Plaintiff,
v.
A. SLOAN, et al.,
Defendants.

No. 2:16-cv-2950-JAM-EFB 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 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 17, 2019, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Defendants have filed objections to the findings and recommendations and plaintiff has filed a response thereto.

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 analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed July 17, 2019, are adopted in full; and
2. Defendants’ December 14, 2018 motion to dismiss (ECF No. 21) is granted, in part, as

follows, and otherwise denied:

- a. Plaintiff’s claims against defendant Blackwell for negligent infliction of emotional distress and violation of the Bane Act are dismissed with leave to amend; and
- b. Plaintiff’s claim against defendant Williams for intentional infliction of emotional distress are dismissed with leave to amend.

3. Plaintiff has 30 days from the date of this order to file an amended complaint curing the emotional distress claims. Plaintiff is not obligated to amend his complaint.

DATED: October 7, 2019

/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE