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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN LEE BARRIOS,
Plaintiff,
v.
THOMAS FERRARA, et al.,
Defendants.

No. 2:17-cv-0415 KJM CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is pro se litigant currently confined to the Atascadero State Hospital. He is proceeding with claims arising under the Eighth Amendment against two defendants: Ferrara and Lewis. Plaintiff’s claim against defendant Ferrara, the Solano County Sheriff, is a claim for injunctive relief. In his complaint, plaintiff seeks immediate relief for migraine headaches.

When plaintiff filed his complaint he was housed at the Solano County Jail. In May of this year, plaintiff informed the court that he has been transferred to Atascadero.

Defendant Ferrara moves to dismiss plaintiff’s claim for injunctive relief as moot. When a prisoner is transferred to a different facility claims for injunctive relief generally become moot. Nelson v. Heiss, 271 F.3d 891, 897 (9th Cir. 2001). There does not appear to be a reason to depart from that rule here as it is not clear when or if plaintiff will ever return to the Solano County jail, if so for how long, if he will still be suffering from migraine headaches when he returns, and/or whether the treatment prescribed, or lack thereof, will be the same when he

1 returns. If, during the pendency of this litigation against defendant Lewis, plaintiff is returned to
2 the Solano County Jail plaintiff is free to seek leave to amend his pleadings to have his claim for
3 injunctive relief reinstated.

4 In accordance with the above, IT IS HEREBY RECOMMENDED that:

- 5 1. Defendant Ferrara's motion to dismiss (ECF No. 14) be granted;
- 6 2. Plaintiff's claim for injunctive relief against defendant Ferrara be dismissed; and
- 7 3. Defendant Ferrara be dismissed from this action.

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

16 Dated: October 30, 2017

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19 CAROLYN K. DELANEY
20 UNITED STATES MAGISTRATE JUDGE

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