ERIC EL,

v.

MICHAEL MARTEL,

Plaintiff,

Defendant.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

No. 2:17-cv-0463 KJM CKD P

ORDER

On May 8, 2017, plaintiff filed a motion for reconsideration of the magistrate judge's order filed April 27, 2017, dismissing plaintiff's complaint with leave to amend. Under E.D. Local Rule 303(f), a magistrate judge's orders shall be upheld unless "clearly erroneous or contrary to law." *Id.* Upon review of the file, the court finds the magistrate judge's ruling was not clearly erroneous or contrary to law.

Plaintiff names only one defendant in his complaint, Michael Martel, the Warden of California Health Care Facility. Plaintiff alleges that on July 6, 2016, he suffered serious "near fatal injury" when he fell off a "wood transfer board used as a bridge to get a person from his bed to his wheel chair." ECF No. 1 at 3. Plaintiff alleges that there were no instructions for safe use provided with the board, that "none of the staff" showed plaintiff how to use the board, none of the staff "wanted to even assist the Plaintiff when he asked for help" in using the board, and no staff responded to the emergency button when plaintiff pushed it for help before he fell. *Id*.

Consistent with the legal principles set forth in the magistrate judge's order, in order to state a claim for relief, plaintiff must allege what defendant Martel did or did not do that contributed to the alleged constitutional violation. In the alternative, plaintiff must name as defendants the staff members who allegedly failed to help him safely use the wood transfer board and describe what those defendants did or did not do that contributed to the alleged constitutional violation. The magistrate judge has properly given plaintiff leave to amend his complaint.

For the foregoing reasons, IT IS HEREBY ORDERED that plaintiff's motion for reconsideration is denied, and upon reconsideration, the order of the magistrate judge filed April 27, 2017, is affirmed.

DATED: July 5, 2017.

UNITED STATES DISTRICT JUDGE