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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOMINIQUE MERRIMAN,
Plaintiff,
v.
JOE LIZARRAGA, et al.,
Defendant.

No. 2:17-cv-1701 MCE KJN 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 March 8, 2018, the magistrate judge filed findings and recommendations herein 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. Plaintiff has filed objections to the findings and recommendations.

Plaintiff objects that his claims against defendants Lizarraga, Allison, Worrell, Telander, and Sullivan were dismissed as too vague, and argues that he does not allege they were deliberately indifferent due to their supervisory positions. Plaintiff explains that the Court’s last screening order focused on improper joinder, rather than plaintiff’s policy claims, and thus he did not “drastically change, amend or withdraw” such claims. ECF No. 16 at 3.

1 However, despite such objections, the Magistrate Judge also found that plaintiff failed to
2 allege sufficient facts to demonstrate the existence of an informal policy, and that plaintiff's
3 allegations concerning such informal policy fail to demonstrate that such challenge is properly
4 joined to plaintiff's Eighth Amendment claims against the remaining defendants, which are based
5 on the discrete events of July 12 and 13, 2017. ECF No. 15 at 3-4. In his objections, plaintiff
6 wholly fails to address the issue of whether such policy claims are properly joined with plaintiff's
7 Eighth Amendment claims against the remaining defendants. Plaintiff was previously advised as
8 to proper joinder under Rule 20(a)(2) of the Federal Rules of Civil Procedure. ECF No. 12 at 6-7
9 & n.7. Thus, plaintiff's objections are overruled because the dismissal of plaintiff's third claim is
10 without prejudice to plaintiff raising such challenge in a separate civil rights action.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
12 Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
13 Court finds the findings and recommendations to be supported by the record and by proper
14 analysis.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The findings and recommendations filed March 8, 2018 (ECF No. 15), are ADOPTED
17 in full;
- 18 2. Plaintiff's third claim against defendants Lizarraga, Allison, Worrell, Telander, and
19 Sullivan is DISMISSED from this action without prejudice; and
- 20 3. This action shall proceed on Plaintiff's remaining claims.

21 IT IS SO ORDERED.

22 Dated: March 26, 2018

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24 MORRISON C. ENGLAND, JR.
25 UNITED STATES DISTRICT JUDGE
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