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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RONNIE CHEROKEE BROWN,
Plaintiff,
v.
R. PLESHCHUK, et al.,
Defendants.

No. 2:19-cv-00699-TLN-KJN

ORDER

Plaintiff Ronnie Cherokee Brown (“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 17, 2020, the magistrate judge filed findings and recommendations 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. (ECF No. 20.) On March 26, 2020, Plaintiff filed Objections to the Findings and Recommendations. (ECF No. 21.)

This Court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the Court assumes its correctness and decides the motions on the applicable law. See Orand v. United

1 States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
2 reviewed de novo. See *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

3 Having carefully reviewed the entire file under the applicable legal standards, the Court
4 finds the Findings and Recommendations to be supported by the record and by the magistrate
5 judge's analysis.

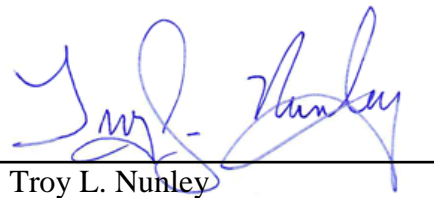
6 In his Objections, Plaintiff seeks an extension of time to again amend his pleading to state
7 a retaliation claim against Defendants, and also objects that his due process claims should not be
8 dismissed. (ECF No. 21 at 2.) However, Plaintiff's request for an extension of time is untimely
9 because his retaliation claims were first dismissed on June 11, 2019. (See ECF No. 7.) Further,
10 Plaintiff failed to provide a proposed amended complaint that demonstrates he is able to state
11 cognizable retaliation or due process claims against defendants. As a prisoner, Plaintiff's
12 pleadings are subject to evaluation by this Court pursuant to the in forma pauperis statute. See 28
13 U.S.C. § 1915A. Since Plaintiff did not submit a proposed amended complaint, the Court is
14 unable to evaluate it.¹ Therefore, Plaintiff's objections are overruled.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The Findings and Recommendations filed March 17, 2020 (ECF No. 20), are adopted
17 in full;
- 18 2. Plaintiff's retaliation and due process claims (ECF No. 1) are DISMISSED, without
19 prejudice; and
- 20 3. This action proceeds on Plaintiff's Eighth Amendment claims against Defendants Dr.
21 Pleschuk and Dr. Valencia (ECF No. 1).

22 IT IS SO ORDERED.

23 DATED: April 7, 2020

24 
25 _____
26 Troy L. Nunley
United States District Judge

27 ¹ The Court notes that, because the dismissal is without prejudice, Plaintiff may file a
28 motion to amend accompanied by his proposed amended complaint in compliance with Federal
Rule of Civil Procedure 15(a).