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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEENAN WILKINS,
Plaintiff,
v.
CONNIE GIPSON, et al.,
Defendants.

No. 2:19-cv-1469 JAM CKD 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 April 12, 2022, 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. The parties have filed their objections to the findings and recommendations and plaintiff has filed a separate motion to strike defendants’ objections. ECF Nos. 63-64, 66.

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. Defendants’ objection challenging plaintiff’s standing to sue based on his lack of an

1 actual injury was not presented in the motion for judgment on the pleadings. While defendants
2 cited case law addressing the standing issue, it was raised in the context of plaintiff's failure to
3 properly plead an Eighth Amendment violation. See ECF No. 54-1 at 14-15. Therefore, the
4 magistrate judge addressed all of defendants' arguments raised in their motion for judgment on
5 the pleadings.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The findings and recommendations filed April 12, 2022, are adopted in full.
- 8 2. Defendants' motion for judgment on the pleadings (ECF No. 54) is granted in part and
9 denied in part. To the extent that the court's screening order of December 17, 2020
10 references Monell, this is stricken and this case proceeds on the allegations in the second
11 amended complaint that defendants Diaz and Gipson were deliberately indifferent to
12 plaintiff's rights to health and safety in violation of the Eighth Amendment. With respect
13 to defendants' qualified immunity argument, the motion is denied without prejudice to
14 renewal at a later stage of the proceedings.
- 15 3. Plaintiff's motion to strike defendants' objections (ECF No. 66) is denied.
- 16 4. Defendants' objection to the Findings and Recommendations (ECF No. 64) based on
17 standing is overruled without prejudice to renewal in a subsequent motion.

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20 DATED: May 9, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE