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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON LATRELL THOMAS,
Plaintiff,
v.
M. ALI, *et al.*,
Defendants.

Case No. 2:20-cv-00864-JDP (PC)
ORDER AND FINDINGS AND
RECOMMENDATIONS

Pending are plaintiff’s motion for summary judgment, ECF No. 66, and motion for judgment on the pleadings, ECF No. 86. Both should be denied.

Motion for Summary Judgment

A. Legal Standards

Summary judgment is appropriate where there is “no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *Washington Mutual Inc. v. United States*, 636 F.3d 1207, 1216 (9th Cir. 2011). An issue of fact is genuine only if there is sufficient evidence for a reasonable fact finder to find for the non-moving party, while a fact is material if it “might affect the outcome of the suit under the governing law.”

1 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Wool v. Tandem Computers, Inc.*, 818
2 F.2d 1422, 1436 (9th Cir. 1987).

3 Rule 56 allows a court to grant summary adjudication, also known as partial summary
4 judgment, when there is no genuine issue of material fact as to a claim or a portion of that claim.
5 See Fed. R. Civ. P. 56(a); *Lies v. Farrell Lines, Inc.*, 641 F.2d 765, 769 n.3 (9th Cir. 1981) (“Rule
6 56 authorizes a summary adjudication that will often fall short of a final determination, even of a
7 single claim”) (internal quotation marks and citation omitted). The standards that apply on a
8 motion for summary judgment and a motion for summary adjudication are the same. See Fed. R.
9 Civ. P. 56 (a), (c); *Mora v. Chem-Tronics*, 16 F. Supp. 2d 1192, 1200 (S.D. Cal. 1998).

10 Each party’s position must be supported by (1) citations to particular portions of materials
11 in the record, including but not limited to depositions, documents, declarations, or discovery; or
12 (2) argument showing that the materials cited do not establish the presence or absence of a
13 genuine factual dispute or that the opposing party cannot produce admissible evidence to support
14 its position. See Fed. R. Civ. P. 56(c)(1) (quotation marks omitted). The court may consider
15 other materials in the record not cited to by the parties, but it is not required to do so. See Fed. R.
16 Civ. P. 56(c)(3); *Carmen v. San Francisco Unified School Dist.*, 237 F.3d 1026, 1031 (9th Cir.
17 2001); see also *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011, 1017 (9th Cir. 2010).

18 “The moving party initially bears the burden of proving the absence of a genuine issue of
19 material fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). To meet its burden, “the
20 moving party must either produce evidence negating an essential element of the nonmoving
21 party’s claim or defense or show that the nonmoving party does not have enough evidence of an
22 essential element to carry its ultimate burden of persuasion at trial.” *Nissan Fire & Marine Ins.*
23 *Co., Ltd. v. Fritz Cos., Inc.*, 210 F.3d 1099, 1102 (9th Cir. 2000). If the moving party meets this
24 initial burden, the burden then shifts to the non-moving party “to designate specific facts
25 demonstrating the existence of genuine issues for trial.” *In re Oracle Corp. Sec. Litig.*, 627 F.3d
26 376, 387 (citing *Celotex Corp.*, 477 U.S. at 323). The non-moving party must “show more than
27 the mere existence of a scintilla of evidence.” *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477
28 U.S. 242, 252 (1986)). However, the non-moving party is not required to establish a material

1 issue of fact conclusively in its favor; it is sufficient that “the claimed factual dispute be shown to
2 require a jury or judge to resolve the parties’ differing versions of the truth at trial.” *T.W.*
3 *Electrical Serv., Inc. v. Pacific Elec. Contractors Assoc.*, 809 F.2d 626, 630 (9th Cir. 1987).

4 The court must apply standards consistent with Rule 56 to determine whether the moving
5 party has demonstrated there to be no genuine issue of material fact and that judgment is
6 appropriate as a matter of law. *See Henry v. Gill Indus., Inc.*, 983 F.2d 943, 950 (9th Cir. 1993).
7 “[A] court ruling on a motion for summary judgment may not engage in credibility
8 determinations or the weighing of evidence.” *Manley v. Rowley*, 847 F.3d 705, 711 (9th Cir.
9 2017) (citation omitted). The evidence must be viewed “in the light most favorable to the
10 nonmoving party” and “all justifiable inferences” must be drawn in favor of the nonmoving party.
11 *Orr v. Bank of America, NT & SA*, 285 F.3d 764, 772 (9th Cir. 2002); *Addisu v. Fred Meyer, Inc.*,
12 198 F.3d 1130, 1134 (9th Cir. 2000).

13 **B. Analysis**

14 Plaintiff argues that he is entitled to summary judgment against all defendants because
15 they have issued only blanket denials to his allegations and have produced nothing other than
16 “self-serving declarations and untrue testimony” in their defense. ECF No. 66 at 2. These
17 contentions might be relevant if defendants were moving for summary judgment. On plaintiff’s
18 motion, however, it is his burden to show that the evidence is such that there is no genuine
19 dispute of fact, and he has failed to carry this burden. Plaintiff has attached various prison
20 grievance and investigative documents, as well as declarations from himself and other inmates.
21 But none of these documents establishes that his version of events is the only plausible one.

22 Additionally, given that I have just ordered service for new defendants, ECF No. 93, and
23 that additional discovery will be necessary, I am disinclined to entertain motions for summary
24 judgment. If plaintiff finds additional support for his claims, he may renew his motion before the
25 close of the new and forthcoming dispositive motions deadline.

1 **Judgment on the Pleadings**

2 I will also deny plaintiff’s motion for judgment on the pleadings. ECF No. 96. Judgment
3 on the pleadings is appropriate only where the moving party “clearly establishes that no material
4 issue of fact remains to be resolved and that he is entitled to judgment as a matter of law.”

5 *Doleman v. Meiji Mut. Life Ins. Co.*, 727 F.2d 1480, 1482 (9th Cir. 1984) (quoting C. Wright &
6 A. Miller, *Federal Practice and Procedure: Civil* § 1368, at 690 (1969)). As noted above, genuine
7 disputes of material fact remain, and this motion should also be denied.

8 Based on the foregoing, it is ORDERED that the Clerk of Court shall assign a district
9 judge to this action.

10 Further, it is RECOMMENDED that plaintiff’s motion for summary judgment, ECF No.
11 66, and motion for judgment on the pleadings, ECF No. 86, be DENIED.

12 I submit these findings and recommendations to the district judge under 28 U.S.C.
13 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
14 Eastern District of California. Within 14 days of the service of the findings and
15 recommendations, any party may file written objections to the findings and recommendations
16 with the court and serve a copy on all parties. That document should be captioned “Objections to
17 Magistrate Judge’s Findings and Recommendations.” The district judge will review the findings
18 and recommendations under 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the
19 specified time may result in the waiver of rights on appeal. *See Wilkerson v. Wheeler*, 772 F.3d
20 834, 839 (9th Cir. 2014).

21
22 IT IS SO ORDERED.

23 Dated: July 11, 2023

24 
25 JEREMY D. PETERSON
26 UNITED STATES MAGISTRATE JUDGE
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