

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Pelton v. Amador County, California

Pelton · No. 2:21-CV-1968-TLN-DMC-P · Decided March 12, 2025

OPINION

(PC) Pelton v. Amador County, CA

PER CURIAM.

1 2 3 4 5 6 7

8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 SEAN MICHAEL PELTON, No. 2:21-CV-1968-TLN-DMC-P

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 AMADOR COUNTY, CALIFORNIA,

15 Defendant. 16

17 Plaintiff, who is proceeding pro se, brings this civil rights action against Defendant 18 Amador
County pursuant to 42 U.S.C. § 1983 and *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 19 690
(1978). Pending before the Court is Defendant's motion for summary judgment. See ECF

20 No. 31. Plaintiff has filed an opposition. See ECF No. 38. Defendant has filed a reply. See ECF
21 No. 41.

22 The Federal Rules of Civil Procedure provide for summary judgment or summary 23
adjudication when “the pleadings, depositions, answers to interrogatories, and admissions on file,
24 together with affidavits, if any, show that there is no genuine issue as to any material fact and
that 25 the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(a). The 26
standard for summary judgment and summary adjudication is the same. See Fed. R. Civ. P. 27
56(a), 56(c); see also *Mora v. ChemTronics*, 16 F. Supp. 2d. 1192, 1200 (S.D. Cal. 1998). One of
28 the principal purposes of Rule 56 is to dispose of factually unsupported claims or defenses. See
1 *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). Under summary judgment practice, the 2
moving party 3 . . . always bears the initial responsibility of informing the district court of the
basis for its motion, and identifying those portions of “the pleadings, 4 depositions, answers to
interrogatories, and admissions on file, together with the affidavits, if any,” which it believes
demonstrate the absence of a 5 genuine issue of material fact. 6 *Id.*, at 323 (quoting former Fed. R.
Civ. P. 56(c)); see also Fed. R. Civ. P. 56(c)(1). 7 If the moving party meets its initial
responsibility, the burden then shifts to the 8 opposing party to establish that a genuine issue as to

any material fact actually does exist. See 9 Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). In attempting to 10 establish the existence of this factual dispute, the opposing party may not rely upon the 11 allegations or denials of its pleadings but is required to tender evidence of specific facts in the 12 form of affidavits, and/or admissible discovery material, in support of its contention that the 13 dispute exists. See Fed. R. Civ. P. 56(c)(1); see also Matsushita, 475 U.S. at 586 n.11. The 14 opposing party must demonstrate that the fact in contention is material, i.e., a fact that might 15 affect the outcome of the suit under the governing law, Anderson v. Liberty Lobby, Inc., 477 U.S. 16 242, 248 (1986); T.W. Elec. Serv., Inc. v. Pacific Elec. Contractors Ass’n, 809 F.2d 626, 630 (9th 17 Cir. 1987), and that the dispute is genuine, i.e., the evidence is such that a reasonable jury could 18 return a verdict for the nonmoving party, Wool v. Tandem Computers, Inc., 818 F.2d 1433, 1436 19 (9th Cir. 1987). To demonstrate that an issue is genuine, the opposing party “must do more than 20 simply show that there is some metaphysical doubt as to the material facts Where the record 21 taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no 22 ‘genuine issue for trial.’” Matsushita, 475 U.S. at 587 (citation omitted). It is sufficient that “the 23 claimed factual dispute be shown to require a trier of fact to resolve the parties’ differing versions 24 of the truth at trial.” T.W. Elec. Serv., 809 F.2d at 631. 25 In resolving the summary judgment motion, the court examines the pleadings, 26 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any. 27 See Fed. R. Civ. P. 56(c). The evidence of the opposing party is to be believed, see Anderson, 28 477 U.S. at 255, and all reasonable inferences that may be drawn from the facts placed before the 1 court must be drawn in favor of the opposing party, see Matsushita, 475 U.S. at 587. 2 Nevertheless, inferences are not drawn out of the air, and it is the opposing party’s obligation to 3 produce a factual predicate from which the inference may be drawn. See Richards v. Nielsen 4 Freight Lines, 602 F. Supp. 1224, 1244-45 (E.D. Cal. 1985), aff’d, 810 F.2d 898, 902 (9th Cir. 5 1987). Ultimately, “[b]efore the evidence is left to the jury, there is a preliminary question for the 6 judge, not whether there is literally no evidence, but whether there is any upon which a jury could 7 properly proceed to find a verdict for the party producing it, upon whom the onus of proof is 8 imposed.” Anderson, 477 U.S. at 251. 9

10 I. BACKGROUND

11 A. Procedural History 12 In determining that Plaintiff’s original complaint stated a potentially viable claim 13 for relief and ordering service, the Court stated as follows: 14 Plaintiff names the County of Amador as the only defendant. See ECF No. 1, pgs. 1, 2. Plaintiff complains of constitutional 15 violations stemming from a municipal policy. According to Plaintiff: “jail policy is not to accept grievances regarding anything which has to do with 16 Covid-19 related issues.” Id. at 4-5. . . . 17 ECF No. 9, pg. 1. 18 Defendant waived service and responded to the complaint by way of a motion to 19 dismiss. See ECF No. 14. On February 8, 2023, the undersigned issued findings and 20 recommendations addressing Defendant’s motion. See ECF No. 21. The Court

agreed with 21 Defendant that Plaintiff's complaint failed to plead sufficient facts to establish a Monell claim 22 against the county, but recommended granting Plaintiff leave to amend. See *id.* The February 8, 23 2023, findings and recommendations were adopted in full by the District Judge on March 8, 2023. 24 See ECF No. 25. 25 Plaintiff filed his first amended complaint on April 6, 2023. See ECF No. 26. 26 Defendant filed an answer on April 21, 2023. See ECF No. 27. On April 26, 2023, the Court 27 issued a scheduling order, setting deadlines for completion of discovery and filing of dispositive 28 motions. See ECF No. 28. Pursuant to that order, discovery closed on January 8, 2024. See *id.*

1 B. Plaintiff's Allegations 2 This action currently proceeds on Plaintiff's verified first amended complaint. See 3 ECF No. 26. In addition to Amador County, Plaintiff newly names as a defendant Gary Redman, 4 the Amador County Sheriff.¹ See *id.* at 1, 2. 5 Plaintiff states that he was booked into the Amador County Jail on July 27, 2021, 6 as a pre-trial detainee. See *id.* at 4. Plaintiff alleges that, from the date through March 1, 2022, 7 he had no opportunity to exercise because the jail's single exercise yard had been closed. See *id.* 8 According to Plaintiff, the exercise yard was closed to allow for a "Covid-19 tent." *Id.* Plaintiff 9 states that, when he filed this action, he initially sought injunctive relief to have the tent removed, 10 but "that issue was resolved approximately five months after filing." *Id.* 11 Plaintiff next states that the Amador County Jail is a very small facility constructed 12 in 1984 and designed to house 76 inmates. See *id.* Plaintiff alleges that there is no room to 13 perform "meaningful exercise" in the cells or dayroom. *Id.* at 4-5. Plaintiff next describes the 14 conditions in the jail's dayroom, specifically details of overcrowding. See *id.* at 5. Plaintiff 15 states: "At this point there is literally no space to put another mattress on the floor [of the 16 dayroom]." *Id.* Plaintiff claims the only space allowing for "meaningful exercise" was the 17 exercise yard, which had been closed. *Id.* According to Plaintiff, despite the exercise yard being 18 closed for the "Covid-19 tent," the tent was never used for its intended purpose. See *id.* Plaintiff 19 alleges that no inmates were ever quarantined in the tent and an outbreak occurred within the jail 20 1 Plaintiff's addition of a new defendant is procedurally inappropriate as an amendment filed absent stipulation or leave of court. 21 The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is 22 one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 23 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). In all other situations, a party's pleadings may only be amended upon leave of court or stipulation of all 24 the parties. See Fed. R. Civ. P. 15(a)(2). Plaintiff's first amended complaint was filed almost one year after Defendant 25 initially responded in this action by way of a motion to dismiss. See ECF Nos. 14 (motion to dismiss filed in April 2022) and 26 (first amended complaint filed in April 2023). While the 26 Court permitted leave to amend as to Plaintiff's allegations of municipal policy against Defendant Amador County, the Court did not grant leave to amend to add a new defendant. Nor does the 27 record reflect that Plaintiff obtained a stipulation from Defendant to

add Gary Redman as a defendant. For these reasons, and consistent with Rule 15, the Court finds that Gary Redman has been improperly named and is not a party to this action. 1 despite the tent. See *id.* Plaintiff asserts that, after complaints from inmates' families about the 2 lack of access to the exercise yard, the Amador County Sheriff ordered removal of the tent. See 3 *id.* at 6. 4 Plaintiff states that, during the time the tent was in place, he and other inmates 5 submitted complaints every day, up to 220 times, about the lack of access to the exercise yard. 6 See *id.* According to Plaintiff, at the start of the Covid-19 pandemic, the "Amador County Board 7 of State and Community Corrections" implemented an official policy, which the Amador County 8 Sheriff promulgated at the Amador County Jail, to "suspend exercise needs." *Id.* at 7. 9 Plaintiff alleges violation of his Fourteenth Amendment right to exercise as a pre- 10 trial detainee. See *id.* at 4. Plaintiff seeks \$1,000,000.00 in monetary damages. See *id.* at 11. 11

12 II. THE PARTIES' EVIDENCE

13 A. Defendant's Evidence 14 Defendant's motion for summary judgment is supported by a separate statement of 15 undisputed facts, see ECF No. 31-1, the declaration of defense counsel William Bittner, Esq., and 16 attached exhibits, see ECF No. 31-2, the declaration of Amador County Sheriff's Office Captain 17 Adam Stone and attached exhibits, see ECF No. 31-3, and the transcript of Plaintiff's deposition, 18 see ECF No. 31-4. 19 According to Defendant, the following facts are undisputed: 20 1. The Amador County Jail (the Jail) is a rural detention facility that houses sentenced and un-sentenced inmates, is state rated for 21 76 inmates, and received approximately eighteen new inmates per week throughout the incident. See Stone Decl. at ¶ 3. 22

2. At the Jail, inmates are housed in multiple "pods," which 23 are made up of multiple cells connected to a central "day room," and recreation space is provided through access to the day rooms, a single 24 library, and a single concrete outdoor yard measuring approximately 40 feet by 50 feet. See Exhibit A to Stone Decl., page 2. 25

3. On March 4, 2020, Governor Gavin Newsom proclaimed a 26 state of emergency existed in California as a result of Covid-19. See Exhibits B and M to Stone Decl. 27 28 / / / 1 4. On March 12, 2020, Amador County's Public Health Officer issued a Declaration of Local Health Emergency Regarding Novel 2 Coronavirus Disease (Covid-19), which found that: (1) the virus is a serious public threat because much is unknown regarding the exact modes 3 of transmission and case fatality rate, (2) the reported cases of COVID-19 escalated dramatically over a short period of time, and (3) the World 4 Health Organization has declared the outbreak to be a pandemic as of March 11, 2020. See Exhibit C to Stone Decl. 5

5. On March 17, 2020, the Director of Emergency Services 6 for Amador County proclaimed a local emergency in Amador County due to "conditions of extreme peril" presented by the novel coronavirus. See 7 Exhibit D to Stone Decl. 8 6. After consulting with the Amador County Public Health Officer and considering federal, state, and local guidance regarding Covid- 9 19, on or about March 18, 2020, the Jail decided to suspend access to the library and outdoor yard until the state of emergency was lifted, in order to 10 limit the spread

of Covid-19 between pods and mitigated the impacts through access to the day room. See Stone Decl. at ¶ 9. 11

7. The Jail notified the California Board of State and

12 Community Corrections (BSC”) and requested emergency suspension of the Title 15 standards because it intended to suspend outdoor exercise 13 starting on March 18, 2020, until the state of emergency was lifted, and the BSCC granted each request for the duration of the incident. See Stone 14 Decl. at ¶ 10; see also Exhibits E and F to Stone Decl. 15 8. While the outdoor exercise yard was closed, inmates performed large muscle exercises in their cells and in their day rooms, 16 walked up and down the stairs and around the ground floor in their day rooms, took showers, and freely took part in other recreation such as 17 making phone calls, watching TV, and playing games. As part of the jail’s mitigation measures, they were provided two extra free phone calls per 18 week. See Stone Decl. at ¶ 13. 19 9. On or about December 2020, after consulting with health officials, the Jail erected Emergency Medical Housing (EMH) on the 20 closed outdoor yard in order to make secure overflow medical space and additional isolation space immediately available, should it be needed. See 21 Stone Decl. at ¶¶ 14, 28; see also Exhibits A and G to Stone Decl. 22 10. The EMH was a BLU-MED Medical Shelter with 1-phase electrical and an entry vestibule, which included 706 square feet of sub 23 flooring and ten ward beds; it required a 5-ton 60Hz environmental control unit, a negative pressure isolation system, NPIS power distribution system, 24 20kW generator, and a 250-gallon fuel storage system; erection and disassembly of the EMH required coordination of a variety of County 25 resources (such as a flatbed truck and forklift) and personnel from various departments; and erection also required boring a hole through the concrete 26 wall of the secure yard. See Stone Decl. at ¶ 16; see also Exhibits A and H to Stone Decl. 27 28 / / / 1 11. The County received financial assistance with purchasing the EMH but received no financial incentive for keeping the EMH on the 2 yard. See Stone Dec. at ¶ 18. 3 12. On or about July 27, 2021, Plaintiff was booked into the Amador County jail where he was confined as a pre-trial detainee for the 4 duration of the incident and was housed in D-pod. See Stone Decl. at ¶ 19. 5 13. D-pod consists of six cells on the ground floor, six cells on a second floor, and a day room that measures approximately 18 feet by 20 6 feet. See Stone Decl. at ¶ 20; see also Exhibits I and J to Stone Decl.; Exhibit N to Bittner Decl. (Pelton Deposition) at 30:3-30:23. 7

14. Plaintiff was able to access the D-pod day room at least

8 three-to-five hours per day, at which time the cells on his floor would be open and the day room contained between twelve and twenty people in it. 9 See Pelton Deposition at 28:7-29:5 and 35:14-35:17; see also Stone Decl. at ¶ 23. 10

15. The needs of the Jail changed over time as the guidance

11 and impacts surrounding Covid-19 evolved, and on or about January 19, 2022, the Jail decided to use the EMH to house minimum security inmate 12 workers, to keep them isolated and healthy to assist with essential daily functions such as laundry and meals. See Stone Dec. at ¶ 24; see also

13 Exhibit G to Stone Decl. 14 16. On or about March 10, 2022, as soon as the jail determined that Covid-19 cases were trending down to a point where it would be safe 15 restore services, the jail removed the EMH and resumed offering outdoor exercise. See Stone Decl. at ¶ 25; see also Exhibit G to Stone Decl. 16

17. On or about February 28, 2023, Governor Newsom

17 terminated California's Covid-19 State of Emergency and Amador County terminated the Local Health Emergency. See Exhibits K and L to Stone 18 Decl. 19 18. The policy that Plaintiff alleges violated his rights was the decision to close the outdoor yard, which he claims violated his Fourteenth 20 Amendment rights by rendering him unable to exercise in the remaining areas he had access to: his cell and day room. See Pelton Deposition at 21 73:6-74:4; see also Exhibit O to Bittner Decl. (Defendant's Interrogatories) at Interrogatory Nos. 1 and 2; Exhibit Q to Bittner Decl. 22 (Plaintiff's Responses) at Reply to Interrogatories Nos. 1 and 2. 23 19. Plaintiff alleges the yard closure was not reasonably related to the legitimate purpose of addressing Covid-19, because (1) the EMH 24 was not used to quarantine individuals who tested positive for Covid-19 and (2) the County received financial incentives to erect and keep the 25 EMH on the yard. See Pelton Deposition at 44:2-45:22, 51:21-52:16, and 102:12-103:9; see also Exhibit P to Bittner Decl. (Defendant's Requests 26 for Admission) at Request No. 6; Exhibit Q to Bittner Decl. (Plaintiff's Responses) at Plaintiff's Responses at Reply to Request No. 6. 27 28 / / / 1 20. There is no evidence that the Jail's only reason for the yard closure was to quarantine individuals testing positive for Covid-19 in the 2 EMH. 3 21. There is no evidence that the sole purpose of the yard closure was financial gain for the County. See Pelton Deposition at 51:16- 4 51:20. 5 ECF No. 31-1. 6 B. Plaintiff's Evidence 7 In opposition to Defendant's motion for summary judgment, Plaintiff has filed a 8 single brief incorporating a statement of "Material Facts," Plaintiff's declaration, and attached 9 Exhibits A and B. See ECF No. 38. 10 In his statement of "Material Facts," Plaintiff disputes the following: 11 1. Whether the exercise yard was closed to address Covid-19. 12 2. Whether inmates performed large muscle exercises in their cells during the time the exercise yard was closes. 13

3. Whether the closed exercise yard was used to assist in the

14 Covid-19 safety plan. 15 4. Whether the exercise yard was opened as soon as it was deemed safe to do so. 16 Id. at 1-2. 17 18 Plaintiff's attached exhibits consist of the following: 19 Exhibit A A copy of a document entitled "Amador County Jail Rules and Regulations." 20 Exhibit B A copy of Amador County Sheriff's Office "Policy 1010" 21 regarding "Exercise and Out of Cell Time."

22 Id. at 15-19.

23 In addition to the foregoing, the Court will consider Plaintiff's verified first 24 amended complaint as his declaration. 25 / / / 26 / / / 27 / / / 28 / / /

1 III. DISCUSSION

2 In its motion for summary judgment, Defendant argues that the undisputed 3 evidence shows

that, under the Fourteenth Amendment, Defendant's response to the Covid-19 4 pandemic was reasonable and related to legitimate penological interests. See ECF No. 31. Next, 5 Defendant argues that, under the Eighth Amendment, which could apply to a Fourteenth 6 Amendment claim by a pre-trial detainee if the government conduct at issue is considered 7 "punishment," Plaintiff's rights were not violated because closure of the exercise yard was a 8 temporary measure in response to a health emergency. See *id.* More specifically as to its liability 9 under Monell based on implementation of a policy, Defendant further contends that it cannot be 10 held liable because Plaintiff cannot establish that the policy to close the exercise yard was 11 promulgated with deliberate indifference to Plaintiff's constitutional right to exercise. See *id.* 12 The Court finds Defendant's argument persuasive. Specifically, given the 13 overlapping legal standards under the Fourteenth Amendment and Eighth Amendment applicable 14 here, the case turns on the reasonableness of Defendant's closure of the outdoor exercise yard. 15 As explained below, the undisputed evidence shows that closure of the outdoor exercise yard was 16 a reasonable response to the Covid-19 pandemic. Because it was reasonable, closure of the 17 exercise yard did not violate Plaintiff's Fourteenth Amendment right to exercise as a pre-trial 18 detainee. Likewise, because it was reasonable, closure of the exercise yard cannot be considered 19 punishment such as would trigger the deliberate indifference standard under the Eighth 20 Amendment and Monell. 21 The rights of pre-trial detainees are protected under the Fourteenth Amendment. 22 See *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Although the Fourteenth Amendment governs the 23 rights of pre-trial detainees, the Eighth Amendment also provides a "minimum standard of care" 24 where the conditions of pre-trial detention amount to punishment. See *Norbert v. City and 25 County of San Francisco*, 10 F.4th 918 (9th Cir. 2021) (quoting *Jones v. Johnson*, 782 F.2d 769, 26 771 (9th Cir. 1986)). Where a particular condition or restriction applicable to a pre-trial detainee 27 is reasonably related to a legitimate government objective, it does not amount to punishment. See 28 *Bell*, 441 U.S. at 539. A condition or restriction which attempts to minimize safety risks is a 1 legitimate penological interest. See *id.* at 561. Whether a decision to implement a restriction is 2 sufficiently reasonably related to a legitimate penological interest should not be judged in 3 hindsight and the decision should be afforded "wide-ranging deference." *Norwood v. Vance*, 591 4 F.3d 1069 (9th Cir. 2010) (citing *Bell*, 441 U.S. at 547). The Ninth Circuit has specifically 5 acknowledged that "[a] County has considerable discretion to curtail access to exercise based on 6 security concerns." *Pierce v. County of Orange*, 526 F.3d 1190, 1212 (9th Cir. 2008) (citing *Bell*, 7 441 U.S. at 539 n.23.); see also *Spain v. Procunier*, 600 F.2d 189, 199 (9th Cir. 1979) (prison 8 officials may restrict outdoor exercise on the basis of unusual circumstances); *Norwood*, 591 F.3d 9 at 1068 (a right to outdoor exercise is not "absolute and infeasible" and does not "trump[] all 10 other considerations"). 11 Defendant argues, and the Court agrees, that under both the Fourteenth 12 Amendment and Eighth Amendment, the temporary closure of the outdoor exercise yard was a 13 restriction which was reasonably related to the legitimate penological interest of preventing the 14 spread of Covid-19 in the jail. The undisputed evidence establishes that the

closure was 15 temporary. The undisputed evidence also shows that the closure was implemented in response to 16 the Covid-19 pandemic as a reasonable restriction designed to provide space to quarantine 17 potentially infected inmates from the rest of the jail population. The undisputed evidence further 18 establishes that, once the danger of spread of the virus had waned, the restriction was lifted. 19 Finally, the undisputed evidence shows that, during the time the outdoor exercise yard was 20 closed, Plaintiff had access to other opportunities for exercise. 21 In similar cases around the country involving prison response to the Covid-19 22 pandemic, courts have concluded that the responses implemented did not violated the deliberate 23 indifference standard under the Eighth Amendment. Indeed, the law indicates that any reasonable 24 response passes constitutional muster. See, e.g., *Stevens v. Carr*, 2021 WL 39542, at *4 (E.D. 25 Wis. Jan. 5, 2021); *Grinis v. Spaulding*, 459 F. Supp. 3d 289, 292 (D. Mass. 2020); see also *Hill 26 v. Whitmer*, 2021 WL 3877920, at *2 (6th Cir. 2021) (affirming dismissal of deliberate 27 indifference claim because the state agency “was aware of the risk that Covid-19 poses and took 28 steps to reduce it”); *Swain v. Junior*, 961 F.3d 1276, 1287-89 (11th Cir. 2020) (concluding that 1 the facility’s response was reasonable despite its failure to mitigate the spread of Covid-19); 2 *Wilson v. Williams*, 961 F.3d 829, 840-44 (6th Cir. 2020) (concluding that the federal Bureau of 3 Prisons’ response was reasonable despite six inmates’ deaths). In *Plata* – the district court 4 litigation overseeing the consent-decree governing health care at California prisons – the court 5 determined that inmates in California had not shown that the state’s response to the Covid-19 6 pandemic had been so deficient as to violate the Eighth Amendment where various measures 7 were undertaken even if they did not fully prevent the spread of Covid-19. See generally 445 F. 8 Supp. 3d 557 (N.D. Cal. 2020).

9 The Court finds that Defendant has met its burden of establishing that the 10 temporary closure of the outdoor exercise yard was reasonably related to a legitimate penological 11 interest. The Court thus turns to Plaintiff’s opposition, which poses a series of issues Plaintiff 12 states are in dispute, but which is not accompanied by any evidence to call Defendant’s evidence 13 into question. Because the evidence establishes that Defendant’s conduct was reasonable, even if 14 not entirely successful, Defendant is entitled to summary judgment under the Fourteenth 15 Amendment, Eighth Amendment, and *Monell*. 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// 28 ///

1 IV. CONCLUSION

2 Based on the foregoing, the undersigned recommends as follows: 3 1. Gary Redman be dismissed as a defendant to this action for having been 4 | improperly named absent stipulation or court order in violation of Rule 15. 5 2. Defendant Amador County’s motion for summary judgment, ECF No. 31, 6 || be granted. 7 These findings and recommendations are submitted to the United States District 8 | Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 9 || after being served with these findings and recommendations, any party may file written objections 10 || with the Court. Responses to objections shall be filed within

14 days after service of objections. 11 | Failure to file objections within the specified time may waive the right to appeal. See Martinez v. 12 | Yist, 951 F.2d 1153 (9th Cir. 1991). 13 14 | Dated: March 12, 2025 Ss..c0_,

15 DENNIS M. COTA

16 UNITED STATES MAGISTRATE JUDGE

17 18 19 20 21 22 23 24 25 26 27 28 12