

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

Porter v. Rivas

No. 1:22-cv-00105-CDB (PC) (E.D. Cal. Mar. 1, 2023) · No. 1:22-cv-00105-CDB (PC) · Decided March 1,
2023

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 LARRY JAMES PORTER, Case No. 1:22-cv-00105-CDB (PC) 12 Plaintiff,
FINDINGS AND RECOMMENDATIONS TO 13 v. DISMISS CERTAIN CLAIMS AND
DEFENDANT 14 O. RIVAS, et al., 14-DAY OBJECTION PERIOD 15 Defendants. Clerk of the
Court to Assign District Judge 16 17 Plaintiff Larry James Porter is a state prisoner proceeding pro
se in this civil rights action.

18 On February 7, 2023, the Court issued its First Screening Order, finding Plaintiff's 19
complaint states a cognizable claim of deliberate indifference to serious medical needs against 20
Defendant Rivas. (Doc. 16 at 5-7.)

The Court further found that Plaintiff failed to state any other 21 cognizable claim against any
other named Defendant. (Id.) The Court therefore directed Plaintiff 22 to file a first amended
complaint curing the deficiencies in his pleading or to notify the Court that 23 he wishes to
proceed only on the claims found cognizable. (Id. at 7-9.) 24 On February 23, 2022, Plaintiff filed
a notice stating that he does not wish to amend his 25 complaint and is "agreeable to proceeding
only with [his] cognizable deliberate indifference to 26 serious medical needs claim against
Defendant Rivas." (Doc.

17.) 27 Accordingly, and for the reasons set forth in the Court's screening order (Doc. 16), the
Court RECOMMENDS that: 1 1. Defendant T. Cisneros be DISMISSED; and, 2 2. The claims in
Plaintiff's complaint be DISMISSED, except for its deliberate 3 indifference to serious medical
needs claims against Defendant Rivas, pursuant to 42 4 U.S.C. § 1983; and 5 3.

The Clerk of the Court is directed to randomly assign a district judge to this action. 6 These
Findings and Recommendations will be submitted to the United States District 7 | Judge assigned
to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of 8 || service of these
Findings and Recommendations, Plaintiff may file written objections with the 9 | Court.

The document should be captioned, "Objections to Magistrate Judge's Findings and 10 |
Recommendations." Failure to file objections within the specified time may result in waiver of 11
| rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.* 12 |

Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). 13 | IT IS SO ORDERED. "Dated: _Mareh 1,
2023 | Wr bo 15 UNITED STATES MAGISTRATE JUDGE 16 17 18 19 20 21 22 23 24 25 26 27
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