

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Howard Washington v. M. Uddin, M.D.

Washington v. Uddin, No. 2:22-CV-2272-DC-DMC-P (E.D. Cal. July 24, 2025) · No. 2:22-CV-2272-DC-DMC-P · Decided July 25, 2025

SUMMARY

These Findings and Recommendations address Defendant M. Uddin’s unopposed motion for summary judgment in Howard Washington’s 42 U.S.C. § 1983 action concerning alleged deliberate indifference to serious medical needs following injuries to his left eye. The court concludes that the undisputed evidence does not establish deliberate indifference or causation attributable to Dr. Uddin and recommends granting summary judgment on the Eighth Amendment claim. It also recommends declining supplemental jurisdiction over any state-law negligence claim.

OPINION

(PC) Washington v. Uddin

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 HOWARD WASHINGTON, No. 2:22-CV-2272-DC-DMC-P

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 M. UDDIN, M.D.,

15 Defendant. 16

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. §
1983. Pending before the Court is Defendant’s motion for summary judgment. See 19 ECF No.
33. Plaintiff has not filed an opposition. 20 The Federal Rules of Civil Procedure provide for
summary judgment or summary 21 adjudication when “the pleadings, depositions, answers to
interrogatories, and admissions on file, 22 together with affidavits, if any, show that there is no
genuine issue as to any material fact and that 23 the moving party is entitled to a judgment as a
matter of law.” Fed. R. Civ. P. 56(a). The 24 standard for summary judgment and summary
adjudication is the same. See Fed. R. Civ. P. 25 56(a), 56(c); see also *Mora v. ChemTronics*, 16 F.
Supp. 2d. 1192, 1200 (S.D. Cal. 1998). One of 26 the principal purposes of Rule 56 is to dispose
of factually unsupported claims or defenses. See 27 / / / 28 / / / 1 *Celotex Corp. v. Catrett*, 477

U.S. 317, 325 (1986). Under summary judgment practice, the moving party . . . always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,” which it believes demonstrate the absence of a genuine issue of material fact. *Id.*, at 323 (quoting former Fed. R. Civ. P. 56(c)); see also Fed. R. Civ. P. 56(c)(1). If the moving party meets its initial responsibility, the burden then shifts to the opposing party to establish that a genuine issue as to any material fact actually does exist. See *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). In attempting to establish the existence of this factual dispute, the opposing party may not rely upon the allegations or denials of its pleadings but is required to tender evidence of specific facts in the form of affidavits, and/or admissible discovery material, in support of its contention that the dispute exists. See Fed. R. Civ. P. 56(c)(1); see also *Matsushita*, 475 U.S. at 586 n.11. The opposing party must demonstrate that the fact in contention is material, i.e., a fact that might affect the outcome of the suit under the governing law, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *T.W. Elec. Serv., Inc. v. Pacific Elec. Contractors Ass’n*, 809 F.2d 626, 630 (9th Cir. 1987), and that the dispute is genuine, i.e., the evidence is such that a reasonable jury could return a verdict for the nonmoving party, *Wool v. Tandem Computers, Inc.*, 818 F.2d 1433, 1436 (9th Cir. 1987). To demonstrate that an issue is genuine, the opposing party “must do more than simply show that there is some metaphysical doubt as to the material facts. . . . Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no ‘genuine issue for trial.’” *Matsushita*, 475 U.S. at 587 (citation omitted). It is sufficient that “the claimed factual dispute be shown to require a trier of fact to resolve the parties’ differing versions of the truth at trial.” *T.W. Elec. Serv.*, 809 F.2d at 631. In resolving the summary judgment motion, the court examines the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any. See Fed. R. Civ. P. 56(c). The evidence of the opposing party is to be believed, see *Anderson*, 477 U.S. at 255, and all reasonable inferences that may be drawn from the facts placed before the court must be drawn in favor of the opposing party, see *Matsushita*, 475 U.S. at 587. Nevertheless, inferences are not drawn out of the air, and it is the opposing party’s obligation to produce a factual predicate from which the inference may be drawn. See *Richards v. Nielsen Freight Lines*, 602 F. Supp. 1224, 1244-45 (E.D. Cal. 1985), *aff’d*, 810 F.2d 898, 902 (9th Cir. 1987). Ultimately, “[b]efore the evidence is left to the jury, there is a preliminary question for the judge, not whether there is literally no evidence, but whether there is any upon which a jury could properly proceed to find a verdict for the party producing it, upon whom the onus of proof is imposed.” *Anderson*, 477 U.S. at 251.

14 I. BACKGROUND

15 A. Procedural History 16 On January 25, 2023, the Court issued a screening order finding Plaintiff had 17 stated cognizable claims against Defendant Uddin and providing Plaintiff an

opportunity to file 18 an amended complaint to cure the deficiencies identified by the Court with respect to claims 19 against Defendant Lynch. See ECF No. 11. On April 5, 2023, after Plaintiff failed to file an 20 amended complaint, the Court issued findings and recommendations that the action proceed on 21 the original complaint as to Plaintiff's Eight Amendment medical care claim against Defendant 22 Uddin only, and that Defendant Lynch be dismissed. See ECF No. 13. On July 25, 2023, the 23 Court's findings and recommendations were adopted in full by the District Judge. See ECF No. 24 22. 25 On July 17, 2023, Defendant Uddin filed an answer. See ECF No. 20. On August 26 21, 2023, the Court issued a discovery and scheduling order with the deadline for completion of 27 discovery set for April 22, 2024, and with a deadline for filing of dispositive motions set for 120 28 days after the discovery cut-off date. See ECF No. 26. After the close of discovery and after 1 being granted additional time to file dispositive motions, Defendant Uddin filed the pending 2 motion for summary judgment on October 18, 2024. See ECF No. 33. To date, Plaintiff has not 3 responded to Defendant's motion. 4 B. Plaintiff's Allegations¹ 5 Plaintiff Howard Washington names as Defendant M. Uddin, M.D., a physician 6 employed with California Correctional Health Care Services (CCHCS) at California State Prison, 7 Sacramento (CSP-SAC). See ECF No. 1, pgs. 1, 7. Plaintiff claims deliberate indifference to a 8 serious medical need under the Eighth Amendment and negligence under California state tort 9 law for Defendant's alleged failure to reasonably respond to Plaintiff's risk of losing his 10 eyesight. See id. at 3. Specifically, Plaintiff claims that after receiving cataract surgery for his 11 left eye on August 4, 2020, he was struck in his left eye by his cellmate on August 9, 2020. See 12 id. at 7-8. As a result, Plaintiff was hospitalized for eight days. See id. at 8. On August 17, 2020, 13 Plaintiff was discharged and prescribed several "medications [to] be given . . . at the Prison," 14 including pain medication. See id. at 9. However, Plaintiff claims that, despite complaining about 15 "the pressure [going] up in Plaintiff's left eye [which] caused Plaintiff extreme pain and 16 discomfort" on August 18, 2020, Defendant Uddin "responded by cutting Plaintiff's medications 17 off and on which caused Plaintiff to suffer in between times." See id. Plaintiff further claims that 18 "Defendant [M.] Uddin, M.D., failed to follow the instructions and recommendations submitted 19 by Dr. Gregory C. Tesluk, and failed to keep Plaintiff's doctor's appointment within the (5) day 20 period." See id. at 10. Only "[a]fter (30 plus days) of agonizing pain," Plaintiff claims, was 21 "Plaintiff finally [able to get] the surgery that was required, but by then it was too late [as] his 22 vision was already los[t]." See id. at 11. In sum, Plaintiff claims that "Plaintiff was purposefully 23 treated poorly and unfairly by . . . Defendant, and his negligence, coupled with his action of 24 deliberate indifference, caused Plaintiff to go blind in his left eye." See id. at 10. 25 // // 26 // // 27 1 The Court's summary is limited to Plaintiff's claims against the sole remaining 28 defendant.

1 II. THE PARTIES' EVIDENCE

2 Defendant's motion is supported by a memorandum of points and authorities, see 3 ECF No. 33, and a separate statement of undisputed facts, see ECF No. 33-2. Defendant also 4 relies on: (1) the

declaration of defense counsel Nicholas P. Banegas, Esq., and exhibits attached 5 thereto, see ECF No. 33-3; (2) the declaration of Defendant M. Uddin, M.D., see ECF No. 33-4; 6 and (3) the declaration of B. Feinberg, M.D., see ECF No. 33-5. 7 According to Defendant, the following relevant facts are undisputed: 8 * * * 9 5-7. On June 8, 2020, Plaintiff was seen by an outside eye specialist, Dr. Wong, who recommended Plaintiff be referred to an 10 ophthalmologist. (Feinberg Decl. at ¶¶ 9-10). 11 * * * 12 9. On June 22, 2020, Dr. Uddin reviewed Dr. Wong's notes and submitted a request for Plaintiff to see an ophthalmologist; the request 13 was approved, and the visit was scheduled for July 27, 2020. (Feinberg Decl., at ¶ 11; Uddin Decl. at ¶ 9). 14 10-11. On July 13, 2020, Dr. Uddin was asked by prison officials 15 if Plaintiff's referral could be postponed due to the risk associated with COVID-19. Dr. Uddin responded that, because of risk of loss of vision, 16 the appointment was too important to be cancelled. (Feinberg Decl. at ¶¶ 12-13; Uddin Decl. at ¶ 10). 17

12. Plaintiff was examined by outside ophthalmologist Dr.

18 Gregory Tesluk at the Modesto Eye Surgery facility on July 27, 2020. (Feinberg Decl. at ¶ 14). 19 13-15. On examination, Dr. Tesluk noted a cataract, a vitreous 20 hemorrhage, and a detached retina in Plaintiff's left eye and recommended multiple surgeries, with a cataract procedure to be done first on an urgent 21 basis. (Feinberg Decl. at ¶ 14; Uddin Decl. at ¶ 11). 22 16. On July 28, 2020, Dr. Uddin reviewed Dr. Tesluk's recommendations and ordered that Plaintiff's cataract surgery be 23 scheduled for the first week of August 2020; the request was approved the same day. (Feinberg Decl. at ¶ 15). 24

17. On July 30, 2020, Dr. Uddin met with Plaintiff to review

25 the treatment plan and make sure that Plaintiff's eyedrops had been ordered. (Feinberg Decl. at ¶ 16; Uddin Decl. at ¶ 12). 26

18. Dr. Tesluk performed cataract surgery on Plaintiff's left

27 eye on August 4, 2020. (Feinberg Decl. at ¶ 17; Uddin Decl. at ¶ 13). 28 / / / 1 19. In his notes, from August 4, 2020, Dr. Tesluk stated that the procedure went well and recommended that Plaintiff return to see him 2 in 3 to 7 days to assess the best timing and planning of the vitrectomy surgery. (Feinberg Decl. at ¶ 17). 3

20. On August 6, 2020, Plaintiff saw Dr. Tesluk for follow-up

4 on his cataract surgery and for planning of the vitrectomy procedure. On examination, Plaintiff's vision in his left eye was significantly reduced. 5 (Feinberg Decl. at ¶ 19; Uddin Decl. at ¶ 14). 6

21. Dr. Tesluk recommended that [Plaintiff] undergo the vitrectomy procedure to the left eye "in a few weeks when the eye has 7 healed a little better" and cautioned him to avoid exercise or any other activity that could damage his surgically repaired eye. (Feinberg Decl. at ¶ 8 19). 9 22-25. Plaintiff was attacked by his cellmate on August 9, 2020, and struck in his left eye with a fist or blunt object. Plaintiff complained of 10 increased pain his left eye and was taken to triage and treatment area where he complained of a total loss of vision in his left eye. (Pl's Depo. at 11 p. 62:20-25; 66:3-11; Feinberg Decl. at ¶ 21). 12 26. The physician on duty was called and ordered

that Plaintiff be taken to the emergency department at UC Davis Medical Center. 13 (Feinberg Decl. at ¶ 21). 14 27. Within hours [of the attack] Plaintiff was admitted to [UC Davis Medical Center] UCD, where he remained for the next several days. 15 UCD ophthalmologists examined Plaintiff and immediately performed emergency surgery on his damaged eye. . . . (Feinberg Decl. at ¶ 22. Uddin 16 Decl. at ¶ 16). 17 * * * 18 32. On August 21, 2020, Plaintiff was seen at UC Davis Medical Center for a follow-up examination with the ophthalmology 19 department which recommended a laser iridotomy procedure. (Feinberg Decl. at ¶ 27; Uddin Decl. at ¶ 21). 20

33. The procedure was performed after informing Plaintiff of 21 the possible risks, including an increase of post-procedure intraocular pressure, however, the procedure was not successful. (Feinberg Decl. at ¶ 22 27; Uddin Decl. at ¶ 19). 23 * * * 24 35. Plaintiff was seen at UC Davis Medical Center on August 26, 2020, for a follow-up at which time it was noted that Plaintiff had 25 elevated intraocular pressure in his left eye following the failed procedure on August 21, 2020. (Feinberg Decl. at ¶ 28). 26 27 / / / 28 / / / 1 36. At his deposition, Plaintiff states that, even if necessary, from August 6, 2020, forward he refused to allow his left eye to be pierced 2 even though that would be required for a vitrectomy required to repair Plaintiff's left eye detached retina. Feinberg Decl. at ¶ 28; pl's Depo. At 3 pp. 77:22-78:9). 4 * * * 5 42. Plaintiff returned from his August 26, 2020, appointment at UC Davis Medical Center without any discharge instructions or doctor's 6 notes. The only document he brought with him from UCD was a handwritten prescription for Norco, which is Tylenol plus hydrocodone. 7 (Feinberg Decl. at ¶ 28. Uddin Decl. at ¶ 21). 8 43. Dr. Uddin was contacted regarding this nonformulary medication and changed it to the equivalent formulary medication of 9 Tylenol with codeine also called Tylenol 3. [T]his is done for all the inmates because the prison does not have Norco. (Feinberg Decl. at ¶ 28. 10 Uddin Decl. at ¶ 21). 11 44. On August 31, 2020, [Plaintiff] was scheduled to see Dr. Uddin for follow-up from the UCD ophthalmology visits. However, 12 because of COVID-19 precautions, this visit was replaced with a chart review by Dr. Uddin. (Feinberg Decl. at ¶ 29. Uddin Decl. at ¶ 23). 13

45. In his notes from August 31, 2020, Dr. Uddin documented 14 that he "was waiting for records from UCD but have not received that yet in spite of multiple attempts. . . . I will wait for the UCD record and review 15 it. If there is any new orders I will take care of that." (Feinberg Decl. at ¶

29. Uddin Decl. at ¶ 23).

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46. [After Plaintiff's August 26, 2020, follow-up appointment 17 at UCD], Dr. Uddin continued the Tylenol with codeine for [Plaintiff]. (Feinberg Decl. at ¶ 29. Uddin Decl. at ¶ 23). 18

47. Emails from Dr. Uddin to his administrative staff confirm 19 that he attempted multiple times to get Plaintiff's records from UC Davis Medical Center. (Feinberg Decl. at ¶ 29. Uddin Decl. at ¶ 24). 20

48. On September 9, 2020, Dr. Uddin finally received the notes
21 from Plaintiff's August 26th visit from UC Davis Medical Center. (Feinberg Decl. at ¶ 29.
Uddin Decl. at ¶ 26). 22

49. Upon immediate review Dr. Uddin noted that Plaintiff's
23 treating physician at UC Davis Medical Center, Dr. Annie Baik, recommended that Plaintiff
follow up with her in "2-3 weeks." [Exh B p. 24 90.) (Feinberg Decl. at ¶ 29; Exh. B at p. 90.
Uddin Decl. at ¶ 25). 25 50. That same day, Dr. Uddin submitted an urgent request for service for
Plaintiff to be seen by ophthalmology. (Feinberg Decl. at ¶ 29. 26 Uddin Decl. at ¶ 26). 27 / / / 28 /
/ / 1 51. Because Dr. Baik's Letter of Authorization with CDCR had expired, Dr. Uddin requested
that Plaintiff be approved to see his other 2 treating ophthalmologist, Dr. Tesluk. (Feinberg Decl.
at ¶ 29. Uddin Decl. at ¶ 26). 3

52. Dr. Uddin submitted the request with the highest level of
4 urgency and it was approved by the Chief Supervising Physician later that day. The earliest
available appointment with Dr. Tesluk was for
5 September 17, 2020. (Feinberg Decl. at ¶ 29. Uddin Decl. at ¶ 26.)

6 53. On September 17, 2020, [Plaintiff] saw Dr. Tesluk for follow-up. Tesluk noted that while he
had intended to perform a 7 vitrectomy procedure after the cataract procedure he had performed,
"prior to this surgery occurring, Mr. Washington was referred on a weekend to 8 UC Davis
because of a new injury whereupon the UC Davis Department of ophthalmology took over his
care." (Feinberg Decl. at ¶ 30). 9

54. At this time, Dr. Tesluk noted that Washington's vision in
10 the left eye had further deteriorated to "no light perception ... which indicates that only
conservative palliative care is probably indicated at this 11 point." (Feinberg Decl. at ¶ 30; Exh. B
at pp. 103-104). 12 55. Dr. Tesluk had determined that additional surgeries would be unlikely to
return any visual acuity to Plaintiff's damaged eye and, 13 therefore, the focus on Plaintiff's care
should shift from restoring his vision to making him more comfortable. (Uddin Decl. at ¶ 28). 14

56. At deposition, Plaintiff confirmed Tesluk's observation and
15 admitted that by the time he saw Tesluk on September 17, 2020, he had already lost all vision
in his left eye. (Pl's Depo. at pp. 99:11-21; 100:23- 16 101:2). 17 * * * 18 59. At deposition,
Plaintiff clarified that naming Dr. Tesluk in Paragraph 30 of the Complaint was a mistake and that
the allegation 19 should read "failed to follow the instructions and recommendations submitted by
Dr. Annie Baik..." (Pl's Depo. at pp. 113:23-114:9.) 20 * * * 21

63. Plaintiff admits that he has sued Dr. Uddin simply because
22 Dr. Uddin was his primary care doctor at the time he suffered the injuries alleged in his lawsuit.
(Pl's Depo. at p. 15:17-25). 23

64. Plaintiff never spoke with Dr. Uddin about any changes to
24 his pain medication and has no evidence that Dr. Uddin withheld pain medication from him.
Plaintiff holds Dr. Uddin responsible only because 25 Uddin was his general practitioner. (Pl's

Depo. at p. 107:1-12). 26 65. Plaintiff has no idea if anyone specifically changed or cancelled his pain medication prescription, just that sometimes “he would 27 go to [his] regular nursing appointments and the medication wouldn’t be there.” (Pl’s Depo. at p. 106:16-25). 28 1 66. When his pain medication was not at the medical window, he would have the nurse send an email to Dr. Uddin telling him “to do 2 [Plaintiff’s] prescription again” and Plaintiff would usually receive the pain medication “the next day.” (Pl’s Depo. at p. 106:16-25). 3

67. Plaintiff does not know if there was a medical reason for
4 any change to his supplied pain medications. (Pl’s Depo. at p. 107:13-16). 5 68. Dr. Uddin ordered that Plaintiff be provided with Tylenol 3 from his return from UC Davis Medical Center on August 26th until
6 September 23, 2020, when he started tapering Plaintiff off his medication.
(Uddin Decl. at ¶ 21-23). 7

69. Dr. Uddin began the tapering because Plaintiff stated at that
8 time that his pain had improved and because Dr. Baik’s initial recommendation was only for one week of narcotics. (Uddin Decl. at ¶ 9 29). 10 ECF No. 33-2, pgs. 2-15. 11 Plaintiff has not filed an opposition or otherwise presented evidence in response to 12 Defendant’s motion for summary judgment. As appropriate, the Court will consider Plaintiff’s 13 verified complaint as his declaration.2 14

15 III. DISCUSSION

16 In the pending unopposed motion for summary judgment, Defendant argues that 17 the undisputed facts show Defendant was not deliberately indifferent to Plaintiff’s medical needs. 18 See ECF No. 33. For the reasons discussed below, the Court agrees that Defendant is entitled to 19 judgment in his favor as a matter of law on Plaintiff’s Eighth Amendment medical deliberate 20 indifference claim. Given the lack of any remaining federal claim, the Court will also 21 recommend that the Court decline to exercise supplemental jurisdiction over any state law 22 negligence claim suggested by Plaintiff’s allegations. See 28 U.S.C. § 1367(c)(3) (permitting the 23 District Court, in its discretion, to decline to exercise supplemental jurisdiction over state law 24 claims in the absence of claims over which it has original jurisdiction). 25 / / / 26 / / / 27 2 The Court notes that Plaintiff references various exhibits in his complaint, but no 28 exhibits are attached. 1 The treatment a prisoner receives in prison and the conditions under which the 2 prisoner is confined are subject to scrutiny under the Eighth Amendment, which prohibits cruel 3 and unusual punishment. See *Helling v. McKinney*, 509 U.S. 25, 31 (1993); *Farmer v. Brennan*, 4 511 U.S. 825, 832 (1994). The Eighth Amendment “. . .embodies broad and idealistic concepts of 5 dignity, civilized standards, humanity, and decency.” *Estelle v. Gamble*, 429 U.S. 97, 102 6 (1976). Conditions of confinement may, however, be harsh and restrictive. See *Rhodes v. 7 Chapman*, 452 U.S. 337, 347 (1981). Nonetheless, prison officials must provide prisoners with 8 “food, clothing, shelter, sanitation, medical care, and personal safety.” *Toussaint v. McCarthy*, 9 801 F.2d 1080, 1107 (9th Cir. 1986). A prison official violates the Eighth Amendment only when

10 two requirements are met: (1) objectively, the official's act or omission must be so serious such
11 that it results in the denial of the minimal civilized measure of life's necessities; and (2) 12
subjectively, the prison official must have acted unnecessarily and wantonly for the purpose of 13
inflicting harm. See *Farmer*, 511 U.S. at 834. Thus, to violate the Eighth Amendment, a prison 14
official must have a "sufficiently culpable mind." See *id.* 15 Deliberate indifference to a prisoner's
serious illness or injury, or risks of serious 16 injury or illness, gives rise to a claim under the
Eighth Amendment. See *Estelle*, 429 U.S. at 105; 17 see also *Farmer*, 511 U.S. at 837. This
applies to physical as well as dental and mental health 18 needs. See *Hoptowit v. Ray*, 682 F.2d
1237, 1253 (9th Cir. 1982), abrogated on other grounds by 19 *Sandin v. Conner*, 515 U.S. 472
(1995). An injury or illness is sufficiently serious if the failure to 20 treat a prisoner's condition
could result in further significant injury or the ". . . unnecessary and 21 wanton infliction of pain."
McGuckin v. Smith, 974 F.2d 1050, 1059 (9th Cir. 1992), overruled 22 on other grounds by *WMX
Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc); see 23 also *Doty v. County of
Lassen*, 37 F.3d 540, 546 (9th Cir. 1994). Factors indicating seriousness 24 are: (1) whether a
reasonable doctor would think that the condition is worthy of comment; (2) 25 whether the
condition significantly impacts the prisoner's daily activities; and (3) whether the 26 condition is
chronic and accompanied by substantial pain. See *Lopez v. Smith*, 203 F.3d 1122, 27 1131-32 (9th
Cir. 2000) (en banc). 28 / / / 1 The requirement of deliberate indifference is less stringent in
medical needs cases 2 than in other Eighth Amendment contexts because the responsibility to
provide inmates with 3 medical care does not generally conflict with competing penological
concerns. See *McGuckin*, 4 974 F.2d at 1060. Thus, deference need not be given to the judgment
of prison officials as to 5 decisions concerning medical needs. See *Hunt v. Dental Dep't*, 865 F.2d
198, 200 (9th Cir. 6 1989). The complete denial of medical attention may constitute deliberate
indifference. See 7 *Toussaint v. McCarthy*, 801 F.2d 1080, 1111 (9th Cir. 1986). 8 Defendant
argues: 9 Plaintiff attributes two acts to Dr. Uddin, that he claims constitute deliberate indifference
to his medical needs: (1) the refusal to send him out 10 to follow up with an eye specialist after he
was released from UCD, and

(2) "cutting Plaintiff's pain medication off and on which caused Plaintiff
11 to suffer." (Compl. at ¶ 17.) Plaintiff can adduce no evidence that Dr. Uddin did either. 12 ECF
No. 33, pg. 13. 13 14 More specifically, Defendant contends: (1) Defendant was not responsible
for any delay in 15 Plaintiff seeing an eye specialist; (2) Plaintiff and the inmate who attacked him
are responsible for 16 the loss of vision in Plaintiff's left eye; and (3) Plaintiff has no evidence
that Defendant cut off 17 his pain medication. See *id.* at 14-17. 18 A. Delay in Seeing an Eye
Specialist 19 Delay in providing medical treatment, or interference with medical treatment, may
20 constitute deliberate indifference. See *Lopez*, 203 F.3d at 1131. Where delay is alleged, 21
however, the prisoner must also demonstrate that the delay led to further injury. See *McGuckin*, 22
974 F.2d at 1060. In this case, the Court agrees with Defendant that, in essence, there was no 23
delay because Plaintiff was able to promptly see an eye. Moreover, to the extent there was a 24

delay attributable to Defendant, Plaintiff cannot show that the loss of his eyesight was caused by 25 that delay. To the contrary, the loss of sight in Plaintiff's left eye was caused by either Plaintiff's 26 refusal to accept further medical treatment or the attack on Plaintiff by another inmate while 27 Plaintiff's eye was still healing. 28 / / / 1 The undisputed facts show that Defendant did not refuse to send Plaintiff for follow- 2 up with an eye specialist, as recommended. As an initial matter, the Court observes that Plaintiff's 3 complaint is ambiguous as to exactly which follow-up medical appointment Defendant allegedly 4 failed to schedule. Plaintiff clarified this ambiguity at his deposition. Specifically, at his 5 deposition, Plaintiff testified that naming Dr. Tesluk in Paragraph 30 of the complaint was a 6 mistake and that the allegation should read "[Defendant Uddin] failed to follow the instructions 7 and recommendations submitted by Dr. Annie Baik..." See Pl's Depo. at pp. 113:23-114:9. 8 Given this testimony, and evidence indicating that Dr. Baik was a treating specialist at UC Davis 9 Medical Center, the Court will focus on whether there is evidence that Defendant failed to send 10 Plaintiff for follow-up appointments consistent with recommendations from any eye doctor at UC 11 Davis Medical Center. 12 Leading up to Plaintiff's treatment at UC Davis Medical Center, Plaintiff 13 underwent a cataract procedure on his left eye at the Modesto Eye Surgery facility August 4, 14 2020. See Feinberg Decl. at ¶ 17; Uddin Decl. at ¶ 13. Dr. Tesluk, who performed the surgery, 15 recommended that Plaintiff be seen for a follow-up appointment in three to seven days. See 16 Feinberg Decl. at ¶ 17. Plaintiff was seen by Dr. Tesluk two days after the cataract procedure – 17 on August 6, 2020. See Feinberg Decl. at ¶ 19; Uddin Decl. at ¶ 14. Three days later – on August 18 9, 2020 – Plaintiff was attacked by his cellmate who struck Plaintiff in his left eye with a fist or 19 blunt object. See Pl's Depo. at p. 62:20-25; 66:3-11; Feinberg Decl. at ¶ 21. Plaintiff was 20 immediately taken to the emergency department at UC Davis Medical Center. See Feinberg 21 Decl. at ¶ 21. 22 The undisputed evidence reflects that Plaintiff was seen by doctors at UC Davis 23 Medical Center on the following occasions:

24 August 9, 2020 Plaintiff was seen at UC Davis Medical Center

emergency department following attack by cellmate. 25 Emergency surgery on the damaged left eye was performed. See Feinberg Decl. at ¶ 22. Uddin Decl. 26 at ¶ 16). 27 / / / 28 / / /

1 August 21, 2020 Plaintiff was seen at UC Davis Medical Center for a

follow-up appointment following the emergency surgery 2 on August 9, 2020. A laser iridotomy was unsuccessfully performed. See Feinberg Decl. at ¶ 27; Uddin Decl. 3 at ¶¶ 19, 21.

4 August 26, 2020 Plaintiff was seen at UC Davis Medical Center for a

follow-up after the unsuccessful procedure on August 21, 5 2020. At the time, elevated intraocular pressure was noted. Plaintiff was returned to prison without any 6 discharge instructions or doctor's notes. Defendant obtained discharge instructions on September 9, 2020, 7 which reflected that the treating physician at UC Davis Medical Center – Dr. Baik – recommended that Plaintiff 8 be seen for a follow-up appointment in "2-3 weeks." See Feinberg Decl. at ¶ 28 and 29, Uddin Decl. at ¶¶ 21, 9 25, and 26. 10 Upon receipt of Dr. Baik's recommendations, Defendant ordered

that Plaintiff be 11 urgently seen for follow-up care, and Plaintiff was seen by Dr. Tesluk on September 17, 2020. 12 See Feinberg Decl. at ¶ 30. Dr. Tesluk noted that Plaintiff had lost all sight in the left eye and 13 that the focus should be on palliative care instead of restoration of vision. See Feinberg Decl. at ¶ 14 30, Uddin Decl. at ¶ 28. 15 The undisputed evidence in this case reveals that there were no delays in 16 scheduling follow-up care. Plaintiff was transported to UC Davis Medical Center for emergency 17 surgery immediately following the attack on August 9, 2020. After emergency surgery was 18 performed on August 9, 2020, Plaintiff was again seen at UC Davis Medical Center for a follow- 19 up appointment on August 21, 2020. There is no evidence of delay – let alone delay caused by 20 Defendant – between the August 9, 2020, emergency surgery and the August 21, 2020, follow-up 21 appointment. Plaintiff was seen again at UC Davis Medical Center for a follow-up on August 26, 22 2020. Again, there is no evidence that there was any delay attributable to the conduct of 23 Defendant Uddin. 24 Plaintiff returned from the August 26, 2020, follow-up appointment without any 25 discharge instructions, which Defendant did not obtain until September 9, 2020. As to the period 26 between August 26, 2020, and September 9, 2020, the undisputed evidence reflects that 27 Defendant Uddin and, on his direction, members of the doctor’s staff, made every effort to obtain 28 the notes and instructions from the August 26, 2020, visit at UC Davis Medical Center. When 1 those instructions were finally received by Defendant Uddin on September 9, 2020, he noticed 2 Dr. Baik’s recommendation for a follow-up in “2-3 weeks,” and ordered an urgent follow-up 3 appointment for Plaintiff, which occurred on September 17, 2020. Thus, the evidence establishes 4 that Defendant Uddin did not delay the follow-up ordered by Dr. Baik. In fact, as per Dr. Baik’s 5 instructions, Plaintiff was seen within approximately three weeks of the August 26, 2020, visit at 6 UC Davis Medical Center. 7 Even if there was undue delay attributable to Defendant Uddin, Plaintiff still 8 cannot prevail because the undisputed evidence shows that Plaintiff did not suffer further injury 9 as a result of delay. Following Plaintiff’s cataract surgery, Plaintiff was attacked by his cellmate 10 and struck in his left eye, which was still healing from surgery. This resulted in same-day 11 emergency surgery, an unsuccessful laser procedure a few days later, and eventually loss of 12 vision in Plaintiff’s left eye. It was the cellmate attack – not any conduct attributable to 13 Defendant Uddin – which resulted in the loss of Plaintiff’s vision. Additionally, the evidence 14 reflects that, as of August 6, 2020, Plaintiff refused all further medical intervention regarding his 15 left eye. Thus, to the extent further medical procedures could have resulted in a restoration of 16 Plaintiff’s vision, it was Plaintiff’s refusal to accept such intervention following the attack that 17 caused Plaintiff’s vision loss, not any conduct attributable to Defendant Uddin. 18 The Court finds that Defendant has met his initial burden on summary judgment of 19 demonstrating the non-existence of a genuine dispute as to essential elements of Plaintiff’s Eighth 20 Amendment Claim. Plaintiff has not opposed Defendant’s motion or otherwise presented 21 evidence to suggest a genuine dispute of fact. The Court will, therefore, recommend summary 22 judgment in Defendant’s favor as to Plaintiff’s claim based on delay. 23 B. Plaintiff’s Medication

24 A difference of opinion between the prisoner and medical providers concerning the 25 appropriate course of treatment does not generally give rise to an Eighth Amendment claim. See 26 Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1996). However, a claim involving alternate 27 courses of treatment may succeed where the plaintiff shows: (1) the chosen course of treatment 28 was medically unacceptable under the circumstances; and (2) the alternative treatment was 1 chosen in conscious disregard of an excessive risk to the prisoner's health. See Toguchi v. 2 Chung, 391 F.3d 1051, 1058 (9th Cir. 2004). 3 Here, the undisputed evidence shows that, when Plaintiff was discharged from UC 4 Davis Medical Center on August 26, 2020, Plaintiff was given a one-week prescription for Norco 5 (Tylenol plus hydrocodone). See Feinberg Decl. at ¶ 28. Uddin Decl. at ¶¶ 21, 29. As with all 6 inmates prescribed nonformulary medication, and because Norco is not available at the prison, 7 Defendant Uddin changed Plaintiff's prescription to Tylenol with codeine (Tylenol 3). See 8 Feinberg Decl. at ¶ 28. Uddin Decl. at ¶ 21. By September 23, 2020, Defendant Uddin began 9 tapering Plaintiff off pain medication because Dr. Baik had only ordered medication for one week 10 and because Plaintiff stated that his pain symptoms had improved following the emergency 11 surgery. See Uddin Decl. at ¶¶ 21-23, 29 12 The Court finds that the evidence in this case shows that Defendant Uddin changed 13 Plaintiff's pain medication to Tylenol 3 and eventually tapered pain medication altogether based 14 on sound medical judgment, specifically Dr. Baik's recommendation for one-week only of 15 medication as well as Plaintiff's reports of improved pain symptoms by September 23, 2020. 16 Plaintiff has presented no evidence to indicate that Defendant Uddin's decision was medically 17 unacceptable or that it was made in conscious disregard of an excessive risk to Plaintiff's health 18 or to cause Plaintiff's unnecessary pain. The Court, therefore, finds that summary judgment in 19 Defendant's favor is also appropriate as to Plaintiff's claim relating to medication. 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// 28 ///

1 IV. CONCLUSION

2 Based on the foregoing, the undersigned recommends that Defendant's unopposed 3 || motion for summary judgment, ECF No. 33, be GRANTED and that the Court decline to exercise 4 || supplemental jurisdiction over any state law claims. 5 These findings and recommendations are submitted to the United States District 6 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 7 || after being served with these findings and recommendations, any party may file written objections 8 | with the Court. Responses to objections shall be filed within 14 days after service of objections. 9 || Failure to file objections within the specified time may waive the right to appeal. See Martinez v. 10 Yist, 951 F.2d 1153 (9th Cir. 1991). 1] 12 13 | Dated: July 24, 2025 Ss..c0_,

M4 DENNIS M. COTA

15 UNITED STATES MAGISTRATE JUDGE

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