UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

2:24-cv-3804 DJC SCR P

THEODORA MEDLEY,

Plaintiff,

v.

S. PFITZER, et al.,

Defendants.

No. 2:22-cv-0227 DJC SCR P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, 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 March 10, 2025, 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 twenty-one days. ECF No. 106. Neither party filed objections to the findings and recommendations.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis.

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AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations (ECF No. 106) are adopted in full;

2. Plaintiff's Eighth Amendment excessive force-sexual assault claim (Claim 1, ECF No. 100 at 12, ¶¶ 62-65) and First Amendment retaliation claim (Claim 3, ECF No. 100 at 13, ¶¶ 71-73) proceed in this action, subject to further screening pursuant to 28 U.S.C. § 1915A;

3. Plaintiff's Eighth Amendment medical indifference claim (Claim 2, ECF No. 100 at 12-13, ¶¶ 66-70) and disability discrimination claims under Title II of the ADA and Section 504 (Claim 4, ECF No. 100 at 13-14, ¶¶ 74-78) are severed from this action and proceed in a new action;

4. The Clerk of the Court is directed to:

a. Open a separate civil action for Plaintiff Theodora Medley against defendants Williams, Drey, Hall, Mohadjer, Hosuru, Byers, Henrey, Vicencio, McKenzie, Samiinia, Peterson, and Bucsit;

b. Assign the new action to the District Judge and Magistrate Judge to whom the instant case is assigned and make appropriate adjustment in the assignment of civil cases to compensate for such assignment;

c. File and docket, with the same effective dates as in this action, a copy of Plaintiff's second amended complaint dated November 12, 2024 (ECF No. 100) and this order in the new action;

d. Send Plaintiff copies of these documents bearing the new case number;

e. Issue and send to Plaintiff New Case Documents;

f. Send Plaintiff an application to proceed in forma pauperis;

5. Plaintiff is ordered to pay a $405.00 filing fee or complete and submit an application to proceed in forma pauperis bearing the new case number within 30 days of this order;

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6. Plaintiff is advised that failure to comply with this order may result in the dismissal of Plaintiff's new case.

IT IS SO ORDERED.

Dated: **May 2, 2025**

Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE