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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GEORGE HAMILTON,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

CASE NO. 1:04-cv-5129-OWW-MJS (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CLAIMS AGAINST ALL DEFENDANTS
OTHER THAN LOPEZ AND AGUIRRE

(Docs. 41, 51 & 55)

Plaintiff George Hamilton, a state prisoner proceeding pro se and in forma pauperis, has 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.

Plaintiff’s First Amended Complaint, filed on August 20, 2008, was an eighty-page document that named approximately seventy-five defendants (not including “Roes 1-100”). In screening Plaintiff’s First Amended Complaint, the Magistrate Judge found that Plaintiff had joined together multiple unrelated causes of action in violation of Federal Rule of Civil Procedure 18(a). (Doc. 45.) The Magistrate Judge reviewed the merits of Plaintiff’s claims against Defendants Lopez, Aguirre, Vogal and Halberg as those claims arose out of the same “transaction, occurrence, or series of transactions or occurrences.” See Fed. R. Civ. Proc. 20(a)(2). The Magistrate Judge found that Plaintiff had stated cognizable claims against Defendants Lopez and Aguirre but not against Defendants Vogal and Halberg. As to the remaining Defendants, the Magistrate Judge recommended dismissing Plaintiff’s claims without prejudice to Plaintiff filing separate actions for each related series of events in compliance with Federal Rules 8(a), 18, 19 and 20. Plaintiff was given the

1 opportunity to either amend his complaint or to notify the Court that he wished to proceed on only
2 those claims found to be cognizable.

3 After much delay, on March 15, 2010, Plaintiff informed the Court that he wished to proceed
4 only on the claims found cognizable by the Magistrate Judge. (Doc. 52.) Plaintiff has since filed
5 the necessary documents and the Court has ordered the United States Marshal to serve Defendants
6 Lopez and Aguirre. On May 4, 2010, the Magistrate Judge issued Findings and Recommendations
7 recommending the dismissal of Plaintiff's claims other than those against Lopez and Aguirre. (Doc.
8 55.)

9 Plaintiff now objects to the Magistrate Judge's Findings and Recommendations and asks the
10 Court to screen his remaining claims to determine whether he has alleged cognizable claims against
11 the other seventy-plus Defendants. (Doc. 61.) The Court declines to do so. As Plaintiff has been
12 informed on a number of occasions, the Federal Rules of Civil Procedure do not allow him to bring
13 unrelated claims against multiple defendants in the same lawsuit. See George v. Smith, 507 f.3d
14 605, 607 (7th Cir. 2007) ("Thus multiple claims against a single party are fine, but Claim A against
15 Defendant 1 should not be joined with unrelated Claim B against Defendant 2. Unrelated claims
16 against different defendants belong in different suits."). The Court is dismissing with prejudice only
17 Plaintiff's claims against Vogal and Halberg, meaning that Plaintiff cannot bring those claims against
18 those Defendants in another lawsuit. All of Plaintiff's other claims against all of the other
19 Defendants are being dismissed without prejudice, meaning Plaintiff is free to bring those claims
20 again in a different matter.

21 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
22 de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings
23 and Recommendations to be supported by the record and by proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed May 4, 2010, is adopted;
- 3 2. Plaintiff has stated cognizable claims against Defendant Aguirre and Lopez and such
- 4 claims remain pending in this action;
- 5 3. Plaintiff's claims against Defendant Vogal and Halberg are DISMISSED WITH
- 6 PREJUDICE for failure to state a claim upon which relief can be granted;
- 7 4. Plaintiff's claims against all other remaining Defendants are DISMISSED
- 8 WITHOUT PREJUDICE.

9 IT IS SO ORDERED.

10 **Dated: June 28, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE