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

KEVIN FIELDS,)	NO. 1:06 cv 00407 AWI GSA PC
)	
Plaintiff,)	ORDER RE: FINDINGS & RECOMMENDATIONS
)	
v.)	
)	ORDER DISMISSING CERTAIN CLAIMS AND REFERRING ACTION TO MAGISTRATE JUDGE
P. ROBERTS, et al.,)	
)	
Defendants.)	Document # 54

Plaintiff is a state prisoner proceeding pro se in this civil rights action. 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 December 23, 2010, [supplemental findings and recommendations](#) were entered, recommending dismissal of certain claims and defendants. Plaintiff was provided an opportunity to file objections within thirty days. On December 29, 2010, Plaintiff filed a document styled as a waiver to objections to the findings and recommendations. In this submission, Plaintiff indicates that he does not object to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 305, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and proper analysis except as ordered below as to Defendant Roberts.

1 Accordingly, THE COURT HEREBY ORDERS that:

- 2 1. The Supplemental Findings and Recommendations issued by the Magistrate Judge
3 on December 23, 2010, are adopted in full; and
- 4 2. This action proceeds on Plaintiff's fifth amended complaint, filed June 24, 2010,
5 against Defendant Neubarth for deliberate indifference to Plaintiff's serious
6 medical needs in violation of the Eighth Amendment, against Defendant Roberts
7 for retaliation from February 28, 2006, to March 15, 2006, and on Plaintiff's state
8 law claim of intentional infliction of emotional distress.
- 9 3. The remaining claims as to Defendant Roberts are dismissed based on Plaintiff's
10 failure to state a claim upon which relief could be granted.
- 11 4. This action is remanded to the Magistrate Judge for further pretrial proceedings as
12 to Defendants Neubarth and Roberts.

13
14 IT IS SO ORDERED.

15 Dated: March 16, 2011

16 
17 CHIEF UNITED STATES DISTRICT JUDGE