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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ELMER ANDRES RIVAS,

Plaintiff,

v.

M. ADONIS, et al.,

Defendants.

CASE NO. 1:10-cv-2302-AWI-SKO (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING CLAIM  
AGAINST DEFENDANT BROWN, AND  
REFERRING MATTER BACK TO  
MAGISTRATE JUDGE TO INITIATE  
SERVICE OF PROCESS ON DEFENDANT  
ADONIS

(Docs. 19 and 20)

\_\_\_\_\_  
Plaintiff Elmer Andres Rivas, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 10, 2010. 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 September 27, 2012, the Magistrate Judge screened Plaintiff’s second amended complaint and recommended that this action proceed on Plaintiff’s Eighth Amendment claim against Defendant Adonis and that Plaintiff’s claim against Defendant Brown be dismissed. 28 U.S.C. § 1915A. The thirty-day deadline to file objections has expired and Plaintiff did not object or otherwise respond to the findings and recommendations.


Pursuant to 28 U.S.C. § 636(b)(1)(C), the 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 by proper analysis.

1 Accordingly, it is HEREBY ORDERED that:

- 2 1. The Court adopts the findings and recommendations filed on September 27, 2012,  
3 in full;
- 4 2. This action shall proceed on Plaintiff's second amended complaint, filed on January  
5 3, 2012, against Defendant Adonis for violation of the Eighth Amendment;
- 6 3. Plaintiff's Eighth Amendment claim against Defendant Brown is dismissed, with  
7 prejudice, for failure to state a claim under section 1983; and
- 8 4. This matter is referred back to the Magistrate Judge to initiate service of process.

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10 IT IS SO ORDERED.

11 Dated: November 28, 2012

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14 UNITED STATES DISTRICT JUDGE