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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL GATES,
Plaintiff,
v.
LONNIE D. JACKSON, et al.,
Defendants.

Case No. CV 14-904 DDP(JC)
ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Original Complaint, the First Amended Complaint, all documents filed in support of and in opposition to defendant M. Buechter’s Motion to Dismiss (“Motion to Dismiss”), the January 11, 2016 Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”) (including the incorporated orders dismissing the Original Complaint and portions of the First Amended Complaint), “Plaintiff[’]s Opposition” to the Report and Recommendation (“Objections”) and all of the records herein. The Court has further made a *de novo* determination of those portions of the Report and Recommendation to which objection is made.

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1 The Court agrees with, and approves and accepts the Report and
2 Recommendation (including, to the extent it has not already done so, the
3 incorporated orders dismissing the Original Complaint and portions of the First
4 Amended Complaint) and overrules the Objections.

5 IT IS HEREBY ORDERED: (1) the Motion to Dismiss is granted to the
6 extent it seeks dismissal of the remaining claim in the First Amended Complaint
7 against the remaining defendant based upon qualified immunity; (2) the remaining
8 portion of the First Amended Complaint is dismissed; (3) plaintiff is granted one
9 final opportunity to amend solely his claim that he was deprived of his Fourteenth
10 Amendment right to due process predicated upon his segregation in the California
11 State Prison, Sacramento – Psychiatric Security Unit – against the sole remaining
12 defendant – defendant Buechter – by filing a Second Amended Complaint within
13 twenty (20) days of the date of this Order;¹ (5) plaintiff is cautioned that the failure
14 timely to file a Second Amended Complaint may result in the dismissal of this
15 action with or without prejudice on the ground set forth above, for failure
16 diligently to prosecute, and/or for failure to comply with this Order; and (6) the
17 Clerk shall to provide plaintiff with a Central District of California Civil Rights
18 Complaint Form, CV-66, to facilitate plaintiff’s filing of a Second Amended
19 Complaint if he elects to proceed in that fashion.

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23 ¹The Second Amended Complaint must: (a) be labeled “Second Amended Complaint”;
24 (b) be complete in and of itself and not refer in any manner to the Original Complaint or the First
25 Amended Complaint (see Local Rule 15-2); (c) contain a “short and plain” statement of the
26 remaining claim for relief (see Fed. R. Civ. P. 8(a)); (d) make each allegation “simple, concise
27 and direct” (Fed. R. Civ. P. 8(d)(1)); (e) make allegations in numbered paragraphs, “each limited
28 as far as practicable to a single set of circumstances” (Fed. R. Civ. P. 10(b)); (f) set forth clearly
the sequence of events giving rise to the remaining claim for relief; (g) allege with sufficient
specificity what the remaining defendant did and how that conduct violated plaintiff’s civil
rights; (h) **not change the nature of this suit by adding any claims or defendants.**

1 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and
2 the Report and Recommendation on plaintiff and counsel for defendant.

3 IT IS SO ORDERED

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5 DATED: January 4, 2017



7 HON. DEAN D. PREGERSON
8 UNITED STATES DISTRICT JUDGE

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